

House Calendar

Tuesday, March 21, 2017

77th DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

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ACTION CALENDAR

Third Reading

S. 13

An act relating to fees and costs allowed at a tax sale

Favorable with Amendment

H. 22

An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council

Rep. Hubert of Milton, for the Committee on Government Operations, recommends the bill be amended as follows:

First: In Sec. 1, in 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), in § 2362a (potential hiring agency; duty to contact former agency), in subdivision (a)(1), following “Prior to hiring a law enforcement officer who” by striking out the words “has been employed at another” and inserting in lieu thereof the words “is no longer employed at his or her last”

Second: In Sec. 1, in 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), in § 2401 (definitions), in subdivision (1) (“Category A conduct”), in subdivision (C) (misdemeanors committed off duty), in subdivision (ix), following “prostitution” by inserting the words “or soliciting prostitution”

Third: In Sec. 1, in 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), in § 2401 (definitions), in subdivision (4) (“effective internal affairs program”), in subdivision (E) (civilian review), following “which may be a selectboard or other elected” by inserting the words “or appointed”

Fourth: In Sec. 1, in 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), in § 2403 (law enforcement agencies; duty to report), by striking out subdivision (a)(1) in its entirety and inserting in lieu thereof a new subdivision (a)(1) to read as follows:

(a)(1) The executive officer of a law enforcement agency or the chair of the agency’s civilian review board shall report to the Council within 10 business days if any of the following occur in regard to a law enforcement officer of the agency:

(A) Category A.

(i) There is a finding of probable cause by a court that the officer committed Category A conduct.

(ii) There is any decision or findings of fact or verdict regarding allegations that the officer committed Category A conduct, including a judicial decision and any appeal therefrom.

(B) Category B.

(i) The agency receives a complaint against the officer that, if deemed credible by the executive officer of the agency as a result of a valid investigation, alleges that the officer committed Category B conduct.

(ii) The agency receives or issues any of the following:

(I) a report or findings of a valid investigation finding that the officer committed Category B conduct; or

(II) any decision or findings, including findings of fact or verdict, regarding allegations that the officer committed Category B conduct, including a hearing officer decision, arbitration, administrative decision, or judicial decision, and any appeal therefrom.

(C) Termination. The agency terminates the officer for Category A or Category B conduct.

(D) Resignation. The officer resigns from the agency while under investigation for unprofessional conduct.

Fifth: In Sec. 1, in 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), in § 2407 (limitation on Council sanctions; first offense of Category B conduct), by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Category B conduct; first offense. If a law enforcement agency conducts a valid investigation of a complaint alleging that a law enforcement officer committed a first offense of Category B conduct, the Council shall take no action.

Sixth: In Sec. 1, in 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), in § 2409 (accessibility and confidentiality), in subdivision (c)(2)(A), following “the name and business address of the law enforcement officer” by striking out the words “and the complainant”

(Committee Vote: 8-0-3)

H. 29

An act relating to permitting Medicare supplemental plans to offer expense discounts

Rep. Jickling of Brookfield, for the Committee on Health Care, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4080e is amended to read:

§ 4080e. MEDICARE SUPPLEMENTAL HEALTH INSURANCE
POLICIES; COMMUNITY RATING; DISABILITY

(a) A health insurance company, hospital or medical service corporation, or health maintenance organization shall use a community rating method acceptable to the Commissioner for determining premiums for Medicare supplemental insurance policies.

(b)(1) The Commissioner shall adopt rules for standards and procedure for permitting health insurance companies, hospital or medical service organizations, or health maintenance organizations that issue Medicare supplemental insurance policies to use one or more risk classifications in their community rating method. The premium charged shall not deviate from the community rate and the rules shall not permit medical underwriting and screening, except that a health insurance company, hospital or medical service corporation, or health maintenance organization may set different community rates for persons eligible for Medicare by reason of age and persons eligible for Medicare by reason of disability.

(2)(A) A health insurance company, hospital or medical service corporation, or health maintenance organization that issues Medicare supplemental insurance policies may offer expense discounts to encourage timely, full payment of premiums. Expense discounts may include premium reductions for advance payment of a full year's premiums, for paperless billing, for electronic funds transfer, and for other activities directly related to premium payment. The availability of one or more expense discounts shall not be considered a deviation from community rating.

(B) A health insurance company, hospital or medical service corporation, or health maintenance organization that issues Medicare supplemental insurance policies shall not offer reduced premiums or other discounts related to a person's age, gender, marital status, or other demographic criteria.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(**Committee Vote: 11-0-0**)

H. 136

An act relating to accommodations for pregnant employees

Rep. Walz of Barre City, for the Committee on General; Housing and Military Affairs, recommends the bill be amended as follows:

First: In Sec. 1, 21 V.S.A. § 495k (accommodations for pregnancy related conditions), in subdivision (a)(4), following “an employee who the employer knows” by striking out “, or should know,”

Second: In Sec. 1, 21 V.S.A. § 495k (accommodations for pregnancy related conditions), following subsection (c), by inserting a new subsection to read as follows:

(d) An employer shall post notice of the provisions of this section in a form provided by the Commissioner in a place conspicuous to employees at the employer’s place of business.

Third: In Sec. 2, Effective Date, by striking out the section in its entirety and inserting in lieu thereof the following:

Sec. 2. EFFECTIVE DATES

(a) This section and in Sec. 1, 21 V.S.A. § 495k subsections (a)–(c) shall take effect on July 1, 2017.

(b) In Sec. 1, 21 V.S.A. § 495k subsection (d) shall take effect on January 1, 2018.

(**Committee Vote: 7-4-0**)

H. 145

An act relating to establishing the Mental Health Crisis Response Commission

Rep. Donahue of Northfield, for the Committee on Health Care, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 7257a is added to read:

§ 7257a. MENTAL HEALTH CRISIS RESPONSE COMMISSION

(a) There is created the Mental Health Crisis Response Commission within the Office of the Attorney General for the following purposes:

(1) to conduct reviews of law enforcement interactions with persons acting in a manner that created reason to believe a mental health crisis was occurring and resulted in a fatality or serious bodily injury to any party to the interaction;

(2) to identify where increased or alternative supports or strategic investments within law enforcement, designated agencies, or other community service systems could improve outcomes;

(3) to educate the public, service providers, and policymakers about strategies for intervention in and prevention of mental health crises;

(4) to recommend policies, practices, and services that will encourage collaboration and increase successful interventions between law enforcement and persons acting in a manner that created reason to believe a mental health crisis was occurring;

(5) to recommend training strategies for public safety, emergency, or other crisis response personnel that will increase successful interventions; and

(6) to make recommendations based on the review of cases before the Commission.

(b)(1) Each incident involving an interaction between law enforcement and a person acting in a manner that created reason to believe a mental health crisis was occurring that results in a death or serious bodily injury to any party shall be referred to the Office of the Attorney General by the relevant law enforcement agency for review, analysis, and recommendations within 60 days of the incident. Interactions not resulting in death or serious bodily injury may be referred for optional review to the Commission, including review of interactions with positive outcomes that could serve to provide guidance on effective strategies.

(2) The review process shall not commence until a final determination has been rendered regarding the appropriateness of the involved law enforcement officer's use of force by Attorney General, State's Attorney, or the internal review process of the law enforcement agency.

(c)(1) The Commission shall comprise the following members:

(A) the Attorney General or designee from a division other than that investigating the interaction;

(B) the Commissioner of Mental Health or designee;

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

(D) a representative of frontline local law enforcement, appointed by

the Vermont Association of Chiefs of Police;

(E) the Executive Director of the Vermont Criminal Justice Training Council or designee;

(F) a representative of the designated agencies, appointed by Vermont Care Partners;

(G) the director of Disability Rights Vermont or designee;

(H) an individual who has a personal experience of living with a mental illness or psychiatric disability, appointed by Vermont Psychiatric Survivors;

(I) a family member of an individual who experienced or is experiencing a mental condition or psychiatric disability, appointed by the Vermont chapter of the National Alliance on Mental Illness; and

(J) two regionally diverse at-large members, appointed by the Governor, who are not representative of subdivisions (A)–(G) of this subdivision (c)(1), such as an emergency dispatcher, specialist in interactions between law enforcement and individuals with a perceived mental condition, or a representative of the Vermont Human Rights Commission or Vermont Legal Aid.

(2) The members of the Commission specified in subdivision (1) of this subsection shall serve two-year terms. Any vacancy on the Commission shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term.

(3) Members who are part of an organization involved in an interaction under review shall recuse themselves from that review and shall not access any information related to it. The Commission may appoint an interim replacement member to fill the category represented by the recused member for review of that interaction.

(d)(1) The Attorney General or designee shall call the first meeting of the Commission to occur on or before September 30, 2017.

(2) The Commission shall select a chair and vice chair from among its members at the first meeting, and annually thereafter.

(3) The Commission shall meet at such times as may reasonably be necessary to carry out its duties, but at least once in each calendar quarter.

(e) In any case under review by the Commission, upon written request of the Commission, a person who possesses information or records that are necessary and relevant to review an interaction shall, as soon as practicable, provide the Commission with the information and records. The Commission

may subpoena information or records necessary and relevant to the review of an interaction from any person who does not provide information or records in his or her possession to the Commission upon receiving an initial written request. A person who provides information or records upon request of the Commission is not criminally or civilly liable for providing information or records in compliance with this section.

(f) The proceedings and records of the Commission are confidential and are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action. The Commission shall not use the information, records, or data for purposes other than those designated by subsections (a) and (i) of this section.

(g) To the extent permitted under federal law, the Commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential information.

(h) Commission meetings are confidential and shall be exempt from 1 V.S.A. chapter 5, subchapter 2 (the Vermont Open Meeting Law). Commission records are exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(i) Notwithstanding 2 V.S.A. § 20(d), the Commission shall report its conclusions and recommendations to the Governor, General Assembly, and Chief Justice of the Vermont Supreme Court on or before January 15 of the first year of the biennium. The report shall disclose individually identifiable health information only to the extent necessary to convey the Commission's conclusions and recommendations, and any such disclosures shall be limited to information already known to the public. The report shall be available to the public through the Office of the Attorney General.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(Committee Vote: 11-0-0)

H. 167

An act relating to establishing drug possession thresholds to distinguish misdemeanor and felony crimes

Reps. Burditt of West Rutland, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS

The General Assembly finds:

(1) According to Michael Botticelli, former Director of the Office of National Drug Control Policy, the National Drug Control Strategy recommends treating “addiction as a public health issue, not a crime.” Further, the strategy “rejects the notion that we can arrest and incarcerate our way out of the nation’s drug problem.”

(2) Vermont Chief Justice Paul Reiber has declared that “the classic approach of ‘tough on crime’ is not working in [the] area of drug policy” and that treatment-based models are proving to be a more effective approach for dealing with crime associated with substance abuse.

(3) A felony conviction record is a significant impediment to gaining and maintaining employment and housing, yet we know that stable employment and housing are an essential element to recovery from substance abuse and desistance of criminal activity that often accompanies addiction.

(4) In a 2014 study by the PEW Research Center, 67 percent of people polled said government should focus more on providing treatment to people who use illicit drugs and less on punishment. The Center later reported that states are leading the way in reforming drug laws to reflect this opinion: State-level actions have included lowering penalties for possession and use of illegal drugs, shortening mandatory minimums or curbing their applicability, removing automatic sentence enhancements, and establishing or extending the jurisdiction of drug courts and other alternatives to the regular criminal justice system.

(5) Vermont must look at alternative approaches to the traditional criminal justice model for addressing low-level illicit drug use if it is going to reduce the effects of addiction and addiction-related crime in this State.

Sec. 2. STUDY

(a) The Office of Legislative Council shall examine the issue of a public health approach to low-level possession and use of illicit drugs in Vermont as an alternative to the traditional criminal justice model, looking to trends both nationally and internationally, with a goal of providing policymakers a range of approaches to consider during the 2018 legislative session.

(b) The Office of Legislative Council shall report its findings to the General Assembly on or before November 15, 2017.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

and that after passage the title of the bill be amended to read: “An act relating to alternative approaches to addressing low-level illicit drug use

(Committee Vote: 9-0-2)

H. 422

An act relating to confiscation of dangerous or deadly weapons from a person arrested or cited for domestic assault

Rep. Conquest of Newbury, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds:

(1) The State of Vermont has a compelling interest in preventing domestic abuse.

(2) Domestic violence is often volatile, escalates rapidly, and possibly fatal. The victim has a substantial interest in obtaining immediate relief because any delay may result in further injury or death. The State's compelling interest in protecting domestic violence victims from actual or threatened harm and safeguarding children from the effects of exposure to domestic violence justifies providing law enforcement officers with the authority to undertake immediate measures to stop the violence. For these reasons the State has a special need to remove firearms from a home where law enforcement has probable cause to believe domestic violence has occurred.

(3) The General Assembly recognizes that it is current practice for law enforcement to remove firearms from a domestic violence scene if the firearms are contraband or evidence of the offense. However, given the potential harm of delay during a domestic violence incident, this legislation authorizes law enforcement officers to temporarily remove other dangerous firearms from persons arrested or cited for domestic violence, while protecting rights guaranteed by the Vermont and U.S. Constitutions, and insuring that those firearms are returned to the owner as soon as doing so would be safe and lawful.

Sec. 2. 13 V.S.A. § 1048 is added to read:

§ 1048. REMOVAL OF FIREARMS

(a) When a law enforcement officer arrests or cites a person for domestic assault in violation of this subchapter, the officer may remove any firearm obtained pursuant to a search warrant or a judicially recognized exception to the warrant requirement if the removal is necessary for the protection of the officer or any other person.

(b)(1) The law enforcement agency in possession of a firearm removed

pursuant to his section shall return it to the person from whom it was removed or to any other person whom the agency reasonably believes is an owner of the firearm within five days after removal if the person requests that the firearm be returned, unless:

(A) the firearm is being or may be used as evidence in a pending criminal or civil proceeding;

(B) a court orders relinquishment of the firearm pursuant to 15 V.S.A. chapter 21 (abuse prevention) or any other provision of law consistent with 18 U.S.C. § 922(g)(8), in which case the weapon shall be stored pursuant to 20 V.S.A. § 2307; or

(C) the person requesting the return is prohibited by law from possessing a firearm.

(2) A law enforcement officer who removes a firearm pursuant to this section shall provide notice of the procedure to obtain return of the firearm to the person from whom it was removed.

(c) This section shall not be construed to permit conduct by a law enforcement officer that violates the U.S. or Vermont Constitution.

(d)(1) A law enforcement officer shall not be subject to civil or criminal liability for acts or omissions made in reliance on the provisions of this section. This section shall not be construed to create a legal duty to a victim or to any other person, and no action may be filed based upon a claim that a law enforcement officer removed or did not remove a firearm as authorized by this section.

(2) A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of firearms removed, stored, or transported pursuant to this section. This subdivision shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.

(3) This section shall not be construed to limit the authority of a law enforcement agency to take any necessary and appropriate action, including disciplinary action, regarding an officer's performance in connection with this section.

Sec. 3. EFFECTIVE DATE

This act shall take effect on September 1, 2017.

and that after passage the title of the bill be amended to read: "An act relating to removal of firearms from a person arrested or cited for domestic assault"

(Committee Vote: 7-4-0)

Favorable

H. 152

An act relating to the Vermont Revised Uniform Fiduciary Access to Digital Assets Act

Rep. LaLonde of South Burlington, for the Committee on Judiciary, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

H. 347

An act relating to the State Telecommunications Plan

Rep. Sibilia of Dover, for the Committee on Energy and Technology, recommends the bill ought to pass.

(Committee Vote: 8-0-0)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 502

An act relating to modernizing Vermont's parentage laws.

(Rep. Colburn of Burlington will speak for the Committee on Judiciary.)

H. 503

An act relating to bail.

(Rep. LaLonde of South Burlington will speak for the Committee on Judiciary.)

H. 504

An act relating to career technical education, special education, and education weightings.

(Rep. Giambatista of Essex will speak for the Committee on Education.)

Favorable with Amendment

H. 39

An act relating to the threshold for operational stormwater permits

Rep. Ode of Burlington, for the Committee on Natural Resources; Fish & Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1264(c) is amended to read:

(c) Prohibitions.

(1)(A) A person shall not commence the construction or redevelopment of ~~one~~ one-half of an acre or more of impervious surface without first obtaining a permit from the Secretary.

(B) A person shall not commence the redevelopment of one acre or more of impervious surface without first obtaining a permit from the Secretary.

(2) A person shall not discharge from a facility that has a standard industrial classification identified in 40 C.F.R. § 122.26 without first obtaining a permit from the Secretary.

(3) A person that has been designated by the Secretary as requiring coverage for its municipal separate storm sewer system may not discharge without first obtaining a permit from the Secretary.

(4) A person shall not commence a project that will result in an earth disturbance of one acre or greater, or less than one acre if part of a common plan of development, without first obtaining a permit from the Secretary.

(5) A person shall not expand existing impervious surface by more than 5,000 square feet, such that the total resulting impervious area is greater than one acre, without first obtaining a permit from the Secretary.

(6)(A) In accordance with the schedule established under subdivision (g)(2) of this section, a municipality shall not discharge stormwater from a municipal road without first obtaining:

(i) an individual permit;

(ii) coverage under a municipal road general permit; or

(iii) coverage under a municipal separate storm sewer system permit that implements the technical standards and criteria established by the Secretary for stormwater improvements of municipal roads.

(B) As used in this subdivision (6), “municipality” means a city, town, or village.

(7) In accordance with the schedule established under subdivision (g)(3) of this section, a person shall not discharge stormwater from impervious surface of three or more acres in size without first obtaining an individual permit or coverage under a general permit issued under this section if the discharge was never previously permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual.

Sec. 2. APPLICABILITY OF AGENCY RULES

All Agency of Natural Resources rules applicable to the construction of one acre or more of impervious surface shall be applicable to the construction of one-half of an acre or more of impervious surface.

Sec. 3. TRANSITION

The construction of less than one acre of impervious surface shall not require a permit under 10 V.S.A. § 1264(c)(1)(A) provided that:

(1) except for application for permits issued pursuant to 10 V.S.A. § 1264(c)(4), complete applications for all local, State, and federal permits related to the regulation of land use or a discharge to waters of the State have been submitted as of July 1, 2019, the applicant does not subsequently file an application for a permit amendment that would have an adverse impact on water quality, and substantial construction of the project commences within two years of July 1, 2019;

(2) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), all local, State, and federal permits related to the regulation of land use or a discharge to waters of the State have been obtained as of July 1, 2019, and substantial construction of the project commences within two years of July 1, 2019;

(3) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), no local, State, or federal permits related to the regulation of land use or a discharge to waters of the State are required, and substantial construction of the project commences within two years of July 1, 2019; or

(4) the construction, redevelopment, or expansion is a public transportation project, and as of July 1, 2019, the Agency of Transportation or the municipality principally responsible for the project has initiated right-of-way valuation activities or determined that right-of-way acquisition is not necessary, and substantial construction of the project commences within five years of July 1, 2019.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee Vote: 7-1-1)

H. 92

An act relating to the registration of dams

Rep. McCullough of Williston, for the Committee on Natural Resources; Fish & Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Registration of Dams * * *

Sec. 1. 10 V.S.A. chapter 43 is amended to read:

CHAPTER 43. DAMS

§ 1079. PURPOSE

It is the purpose of this chapter to protect public safety through the inventory, inspection, and evaluation of dams in the State.

§ 1080. DEFINITIONS

As used in this chapter:

(1) ~~“Department” means the department of environmental conservation~~
Department of Environmental Conservation.

(2) “Person” means any individual; partnership; company; corporation; association; joint venture; trust; municipality; the state State of Vermont or any agency, department, or subdivision of the state State, any federal agency, or any other legal or commercial entity.

(3) ~~“Person in interest”~~ “Interested person” means, in relation to any dam, a person; who has riparian rights affected by that dam; who has a substantial interest in economic or recreational activity affected by the dam; or whose safety would be endangered by a failure of the dam; or who notifies the Department of interest in the dam.

(4) “Engineer” means a professional engineer ~~registered~~ licensed under Title 26 who has experience in the design and investigation of dams.

(5) “Time” shall be reckoned in the manner prescribed by 1 V.S.A. § 138.

(6)(A) “Dam” means any artificial barrier, including its appurtenant works, that is capable of impounding water, other liquids, or accumulated sediments.

(B) “Dam” includes an artificial barrier that:

(i) previously was capable of impounding water, other liquids, or accumulated sediments;

(ii) was partially breached; and

(iii) has not been properly removed or mitigated.

(C) “Dam” shall not mean:

(i) barriers or structures created by beaver or any other wild animal as that term is defined in section 4001 of this title;

(ii) a highway culvert;

(iii) an artificial barrier at a stormwater management structure that is regulated by the Agency of Natural Resources under chapter 47 of this title;

(iv) an underground or elevated tank to store water otherwise regulated by the Agency of Natural Resources;

(v) an agricultural waste storage facility regulated by the Agency of Agriculture, Food and Markets under 6 V.S.A. chapter 215;

(vi) a negligible hazard potential dam; or

(vii) any other structure identified by the Department by rule.

(7) “Negligible hazard potential dam” means a dam that, if it were to fail, would result in all of the following:

(A) no measurable damage to roadways;

(B) no measurable damage to habitable structures, including residences, hospitals, convalescent homes, schools, roadways, or other structures; and

(C) negligible economic loss.

(8) “Pond” means a natural body of standing water.

§ 1081. JURISDICTION OF DEPARTMENT AND PUBLIC SERVICE BOARD

(a) Unless otherwise provided, the powers and duties authorized by this chapter shall be exercised by the ~~department~~ Department, except that the ~~public service board~~ Public Service Board shall exercise those powers and duties over dams and projects that relate to or are incident to the generation of electric energy for public use or as a part of a public utility system.

(b) Transfer of jurisdiction. Jurisdiction over a dam is transferred from the ~~department~~ Department to the ~~public service board~~ Public Service Board whenever the Federal Energy Regulatory Commission grants a license to generate electricity at the dam or whenever the ~~public service board~~ Public Service Board receives an application for a certificate of public good for electricity generation at that dam. Jurisdiction is transferred from the ~~public service board~~ Public Service Board to the ~~department~~ Department whenever such a federal license expires or is otherwise lost, whenever such a certificate of public good is revoked or otherwise lost, or whenever the ~~public service board~~ Public Service Board denies an application for a certificate of public good.

(c) Upon transfer of jurisdiction as set forth ~~abov~~ in this section and upon

written request, the ~~state~~ State agency having former jurisdiction over a dam shall transfer copies of all records pertaining to the dam to the agency acquiring jurisdiction.

§ 1082. AUTHORIZATION

(a) No person shall construct, enlarge, raise, lower, remodel, reconstruct, or otherwise alter any dam, pond, or impoundment or other structure which is or will be capable of impounding more than 500,000 cubic feet of water or other liquid after construction or alteration, or remove, breach, or otherwise lessen the capacity of an existing dam that is or was capable of impounding more than 500,000 cubic feet within or along the borders of this ~~state~~ State where land in this ~~state~~ State is proposed to be overflowed, or at the outlet of any body of water within this ~~state~~ State, unless authorized by the state agency having jurisdiction so to do. However, in the matter of flood control projects where cooperation with the federal government is provided for by the provisions of section 1100 of this title, that section shall control.

(b) For the purposes of this chapter, the volume a dam or other structure is capable of impounding is the volume of water or other liquid, including any accumulated sediments, controlled by the structure with the water or liquid level at the top of the highest nonoverflow part of the structure.

§ 1083. APPLICATION

(a) Any person who proposes to undertake an action subject to regulation pursuant to section 1082 of this title shall apply in writing to the State agency having jurisdiction. The application shall set forth:

(1) the location, the height, length, and other dimensions, and any proposed changes to any existing dam;

(2) the approximate area to be overflowed and the approximate number of, or any change in the number of cubic feet of water to be impounded;

(3) the plans and specifications to be followed in the construction, remodeling, reconstruction, altering, lowering, raising, removal, breaching, or adding to;

(4) any change in operation and maintenance procedures; and

(5) other information that the ~~state~~ State agency having jurisdiction considers necessary to ~~properly~~ review the application.

(b) The plans and specifications shall be prepared under the supervision of an engineer.

§ 1083a. AGRICULTURAL DAMS

~~(a) Notwithstanding the provisions of sections 1082, 1083, 1084, and 1086~~

~~of this title, the owners of an agricultural enterprise who propose, as an integral and exclusive part of the enterprise, to construct or alter any dam, pond or impoundment or other structure requiring a permit under section 1083 shall apply to the natural resources conservation district in which his land is located. The natural resources conservation districts created under the provisions of chapter 31 of this title shall be the state agency having jurisdiction and shall review and approve the applications in the same manner as would the department. The districts may request the assistance of the department for any investigatory work necessary for a determination of public good and for any review of plans and specifications as provided in section 1086.~~

~~(b) As used in this section, "agricultural enterprise" means any farm, including stock, dairy, poultry, forage crop and truck farms, plantations, ranches and orchards, which does not fall within the definition of "activities not engaged in for a profit" as defined in Section 183 of the Internal Revenue Code and regulations relating thereto. The growing of timber does not in itself constitute farming.~~

~~(c) Notwithstanding the provisions of this section, jurisdiction shall revert to the department when there is a change in use or when there is a change in ownership which affects use. In those cases the department may, on its own motion, hold meetings in order to determine the effect on the public good and public safety. The department may issue an order modifying the terms and conditions of approval.~~

~~(d) The natural resources conservation districts may adopt any rules necessary to administer this chapter. The districts shall adhere to the requirements of chapter 25 of Title 3 in the adoption of those rules.~~

~~(e) Notwithstanding the provisions of chapter 7 of Title 3, the attorney general shall counsel the districts in any case where a suit has been instituted against the districts for any decision made under the provisions of this chapter. [Repealed.]~~

§ 1084. DEPARTMENT OF FISH AND WILDLIFE; INVESTIGATION

~~The commissioner of fish and wildlife~~ Commissioner of Fish and Wildlife shall investigate the potential effects on fish and wildlife habitats of any proposal subject to section 1082 of this title and shall certify the results to the state State agency having jurisdiction prior to any hearing or meeting relating to the determination of public good and public safety.

§ 1085. NOTICE OF APPLICATION

Upon receipt of the application required by section 1082 of this title, the State agency having jurisdiction shall give notice to the legislative body of

each municipality in which the dam is ~~allocated~~ located and to all ~~persons~~ interested persons.

(1) The Department shall proceed in accordance with chapter 170 of this title.

(2) For any project subject to its jurisdiction under this chapter, the ~~public service board~~ Public Service Board shall hold a hearing on the application. The purpose of the hearing shall be to determine whether the project serves the public good as defined in section 1086 of this title and provides adequately for the public safety. The hearing shall be held in a municipality in the vicinity of the proposed project and may be consolidated with other hearings, including hearings under 30 V.S.A. § 248 concerning the same project. Notice shall be given at least 10 days before the hearing to interested persons by posting in the municipal offices of the towns in which the project will be completed and by publishing in a local newspaper.

§ 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

(a) "Public good" means the greatest benefit of the people of the State. In determining whether the public good is served, the State agency having jurisdiction shall give due consideration to, among other things, ~~to~~ the effect the proposed project will have on:

(1) the quantity, kind, and extent of cultivated agricultural land that may be rendered unfit for use by or enhanced by the project, including both the immediate and long-range agricultural land use impacts;

(2) scenic and recreational values;

(3) fish and wildlife;

(4) forests and forest programs;

(5) ~~the need for a minimum water discharge flow rate schedule to protect the natural rate of flow and the water quality of the affected waters;~~ [Repealed.]

(6) the existing uses of the waters by the public for boating, fishing, swimming, and other recreational uses;

(7) the creation of any hazard to navigation, fishing, swimming, or other public uses;

(8) the need for cutting clean and removal of all timber or tree growth from all or part of the flowage area;

(9) the creation of any public benefits;

(10) ~~the classification, if any, of the affected waters under chapter 47 of~~

~~this title~~ consistency with the Vermont water quality standards;

(11) any applicable State, regional, or municipal plans;

(12) municipal grand lists and revenues;

(13) public safety; and

(14) in the case of the proposed removal of a dam that formerly related to or was incident to the generation of electric energy, but which was not subject to a memorandum of understanding dated prior to January 1, 2006, relating to its removal, the potential for and value of future power production.

(b) If the State agency having jurisdiction finds that the proposed project will serve the public good, and, in case of any waters designated by the Secretary as outstanding resource waters, will preserve or enhance the values and activities sought to be protected by designation, the agency shall issue its order approving the application. The order shall include conditions for minimum stream flow to protect fish and instream aquatic life, as determined by the Agency of Natural Resources, and such other conditions as the agency having jurisdiction considers necessary to protect any element of the public good listed ~~above~~ in subsection (a) of this section. Otherwise it shall issue its order disapproving the application.

(c) The ~~Agency~~ Department shall provide the applicant and interested ~~parties~~ persons with copies of its order.

(d) In the case of a proposed removal of a dam that is under the jurisdiction of the Department and that formerly related to or was incident to the generation of electric energy but that was not subject to a memorandum of understanding dated before January 1, 2006 relating to its removal, the Department shall consult with the Department of Public Service regarding the potential for and value of future power production at the site.

§ 1087. REVIEW OF PLANS AND SPECIFICATIONS

~~Upon receipt of an application, the state agency having jurisdiction~~ For any proposal subject to authorization under section 1082, the Department shall employ a registered an engineer experienced in the design and investigation of dams to investigate the property, review the plans and specifications, and make additional investigations as if the Department considers necessary to ensure that the project adequately provides for the public safety. The engineer shall report his or her findings to the agency Department. The Department may assess expenses incurred in retaining an engineer under this section to the applicant under 3 V.S.A. § 2809.

§ 1089. EMPLOYMENT OF HYDRAULIC ENGINEER

With the approval of the ~~governor~~ Governor, the ~~state agency having~~

~~jurisdiction~~ Department may employ a ~~competent hydraulic~~ an engineer to investigate the property, review the plans and specifications, and make such additional investigation as ~~such agency~~ the Department shall deem necessary, and such engineer shall report to the ~~agency~~ Department his or her findings in respect thereto. The Department may assess expenses incurred in retaining an engineer under this section to the person owning legal title to the dam under 3 V.S.A. § 2809.

§ 1090. CONSTRUCTION SUPERVISION

The construction, alteration, or other action authorized in section 1086 of this title shall be supervised by a ~~registered~~ an engineer employed by the applicant. Upon completion of the authorized project, the engineer shall certify to the ~~agency having jurisdiction~~ Department that the project has been completed in conformance with the approved plans and specifications.

§ 1095. UNSAFE DAM; PETITION; HEARING; EMERGENCY

(a) On receipt of a petition signed by ~~not less~~ no fewer than ten ~~persons in interest~~ interested persons or the legislative body of a municipality, the ~~agency having jurisdiction~~ Department shall, or upon its own motion it may, institute investigations by an engineer as described in section 1087 of this title regarding the safety of any existing dam or portion of a dam, of any size. The ~~agency~~ Department may fix a time and place for hearing and shall give notice in the manner it directs to all parties interested. The engineer shall present his or her findings and recommendations at the hearing. After the hearing, if the ~~agency~~ Department finds that the dam or portion of the dam as maintained or operated is unsafe or is a menace to people or property above or below the dam, it shall issue an order directing reconstruction, repair, removal, breaching, draining, or other action it considers necessary to ~~make the dam safe~~ improve the safety of the dam.

(b) If, upon the expiration of such date as may be ordered, the ~~owner of~~ person owning legal title to such dam has not complied with the order directing the reconstruction, repair, breaching, removal, draining, or other action of such unsafe dam, the ~~state agency having jurisdiction~~ Department may petition the ~~superior court~~ Superior Court in the county in which the dam is located to enforce its order or exercise the right of eminent domain to acquire such rights as may be necessary to effectuate a remedy as the public safety or public good may require. If the order has been appealed, the court may prohibit the exercise of of eminent domain by the Department pending disposition of the appeal.

(c) If, upon completion of the investigation described in subsection (a) of this section, the ~~state agency having jurisdiction~~ Department considers the dam to present an imminent threat to human life or property, it shall take whatever

action it considers necessary to protect life and property, and subsequently conduct the hearing described in subsection (a).

* * *

§ 1097. ~~SURVEY OF EXISTING DAMS; ORDERS FOR PROTECTION OF SALMON~~

~~The fish and wildlife board shall forthwith make a survey of all dams within the state which impound more than three hundred thousand cubic feet of water and determine if the operation of such dams adversely affects the propagation and preservation of salmon, or materially diminishes the amount of flow in portions of a stream likely to be used for such preservation and propagation of salmon. If the board determines that the operation of an existing dam does adversely affect the propagation and preservation of salmon or materially diminishes the flow of water over portions of stream likely to be used therefor, it shall order such changes in operation for such length of time or times as are reasonably necessary in its judgment to fully protect such preservation and propagation of salmon. Any order of the board made under this section shall be based upon facts found and stated. Appeal from an order of the board may be taken in the manner prescribed for appeals from the public service board as provided in chapter 1 of Title 30. [Repealed.]~~

§ 1098. REMOVAL OF OBSTRUCTIONS; APPROPRIATION

The ~~department~~ Department may contract for the removal of sandbars, debris, or other obstructions from streams which the ~~department~~ Department finds that while so obstructed may be a menace in time of flood, or endanger property or life below, or the property of riparian owners. The expense of investigation and removal of the obstruction shall be paid by the ~~state~~ State from funds provided for that purpose.

§ 1099. APPEALS

(a) Appeals of any act or decision of the ~~department~~ Department under this chapter shall be made in accordance with chapter 220 of this title.

(b) Appeals from actions or orders of the ~~public service board~~ Public Service Board may be taken in the ~~supreme court~~ Supreme Court in accord with 30 V.S.A. § 12.

* * *

§ 1105. INSPECTION OF DAMS

(a) Dam safety engineer. ~~The State agency having jurisdiction~~ Department shall employ an engineer to make periodic inspections of nonfederal dams in the State to determine their condition and the extent, if any, to which they pose a ~~potential~~ possible or ~~actual~~ probable threat to life and property, or shall

~~promulgate~~ adopt rules pursuant to 3 V.S.A. chapter 25 of Title 3 to require an adequate level of inspection by an independent ~~registered~~ engineer experienced in the design and investigation of dams. The agency Department shall provide the ~~owner~~ person owning legal title to the dam with the findings of the inspection and any recommendations.

(b) Dam safety reports. If a dam inspection report is completed by the Department, the Department shall provide the person owning legal title to the dam with a copy of the inspection report.

* * *

§ 1107. HAZARD POTENTIAL CLASSIFICATIONS

Dams required to be registered with the Department under section 1108 of this title shall be assessed a hazard potential classification based on the potential loss of human life, property damage, and economic loss that would occur in the event of the failure of a dam. The hazard potential classifications for a dam are as follows:

(1) “High hazard potential dam” means a dam that, if it were to fail, would result in any of the following:

(A) probable loss of life;

(B) major damage to habitable structures, including residences, hospitals, convalescent homes, schools, roadways, or other structures; or

(C) excessive economic loss.

(2) “Significant hazard potential dam” means a dam that, if it were to fail, would result in any of the following:

(A) possible loss of life;

(B) minor damage to habitable structures, including residences, hospitals, convalescent homes, schools, roadways, or other structures; or

(C) appreciable economic loss.

(3) “Low hazard potential dam” means a dam that, if it were to fail, would result in any of the following:

(A) no loss of life;

(B) no damage to habitable structures, including residences, hospitals, convalescent homes, schools, roadways, or other structures; or

(C) minimal economic loss.

§ 1108. DAM REGISTRATION

(a) Dam registration.

(1) A person owning legal title to a dam shall register the dam with the Department if:

(A) the dam is capable of impounding 500,000 cubic feet or more of water, other liquids, or accumulated sediments; or

(B) the dam is listed on the Vermont Dam Inventory maintained by the Department.

(2) A financial institution, as that term is defined in 8 V.S.A. § 11101(32), is exempt from the requirements of this section and the fee required under 3 V.S.A. § 2822 when the financial institution acquires title to a dam through foreclosure under 12 V.S.A. chapter 172.

(b) Registration process.

(1) The Department shall provide a registration form to persons owning legal title to a dam. The Department shall allow registration in paper or electronic format.

(2) As part of the registration, the person owning legal title to a dam shall:

(A) notify the Department of the location of the dam, including the coordinates of the location in latitude and longitude or an equivalent accurate method; and

(B) notify the Department of the initial hazard potential classification of the dam based on information available to the person owning legal title to the dam.

(c) Hazard potential classifications.

(1) The Department shall use the U.S. Army Corps of Engineers' Rules for the National Program for Inspection of Non-federal Dams as guidance in the classification and reclassification of the hazard potential classification of dams in the State.

(2) For the purposes of initial registration of a dam under subsection (a) of this section, the Department shall develop guidance and educational materials regarding how a person shall assess the hazard potential classification of a dam in a manner consistent with the hazard potential classification adopted by the Department under subdivision (1) of this subsection.

(3)(A) The Department shall review the hazard potential classifications of dams under its jurisdiction that are registered under this section and may, after inspection of a dam, reclassify the hazard potential classification of a dam based on the location of the structure in proximity to human habitation and the

potential economic loss from failure of the dam. The Department shall notify the person owning legal title to the dam of any reclassification of the hazard potential classification of a dam.

(B) The hazard potential classification of a dam within the jurisdiction of the Public Service Board shall be reclassified according to the Department rules for the safety of hydroelectric dams.

(4) A person owning legal title to a dam may appeal the Department's reclassification of the hazard potential of a dam under this section under chapter 220 of this title.

(d) Notification of dam registration requirement. If the Department identifies the person owning legal title of an unregistered dam, the Department shall notify the person owning legal title to the dam of the requirement to register the dam under this section. The person owning legal title to a dam who receives notice of a required registration under this subsection shall have 60 days from the date of the Department's notice to submit a complete dam registration form to the Department.

(e) Failure to file dam registration. If a person owning legal title to a dam fails to submit the dam registration form as required under subsection (b) of this section, the Department may inspect the dam or retain an engineer to inspect the dam. The Department shall assess against the person owning legal title to the dam the cost to the Department of the inspection.

(f) Addition to Vermont Dam Inventory. When the Department is informed, through registration under this section or other means, of the location of a dam that is not on the Vermont Dam Inventory, the Department shall add the dam to the Vermont Dam Inventory and shall notify, if identifiable, the person owning legal title to the dam of the addition of the dam to the inventory.

(g) Recording. A person owning legal title to a dam shall file the dam registration required by this section or rules adopted under this chapter in the records of the town or towns where the dam is located. The registration form shall include information on how a person may obtain a dam safety inspection report for the dam. A town clerk shall index and record dam registrations in the land records pursuant to 24 V.S.A. §§ 1154 and 1161.

(h) Lien on property on which dam is situated. When the Department takes action under this section to inspect a dam or when the Department takes any action under this chapter to alleviate or address a risk to life or property from a dam within the jurisdiction of the Department, the Department may file a lien in favor of the State on the property on which the dam is located and on the buildings and structures located on that property in order to secure repayment

to the State of the costs of the inspection or other action. The lien shall arise at the time demand is made by the Secretary and shall continue until the liability for such sum with interest and costs is satisfied or becomes unenforceable. A lien under this section shall be subordinate to a primary mortgage on the property. The Department shall record notice of a lien under this section in the land records of the town in which the property is located.

§ 1109. MARKETABILITY OF TITLE

The failure of the person owning legal title to a dam to record a dam registration or a dam inspection report when required under this chapter or rules adopted under this chapter shall not create an encumbrance on record title or an effect on marketability of title for the real estate property or properties on which the dam is located, except when the Department files a lien on property under section 1108 of this title.

§ 1110. RULEMAKING

The Commissioner of Environmental Conservation shall adopt rules to implement the requirements of this chapter. The rules shall include:

(1) a standard or regulatory threshold under which a dam is exempt from the registration or inspection requirements of this chapter;

(2) standards for:

(A) the siting, design, construction, reconstruction, enlargement, modification, or alteration of a dam;

(B) operation and maintenance of a dam;

(C) inspection, monitoring, recordkeeping, and reporting;

(D) repair, breach, or removal of a dam;

(3) requirements for the development of an emergency action plan for a dam, including guidance on how to develop an emergency action plan, the content of a plan, and when and how an emergency action plan should be updated.

§ 1111. NATURAL RESOURCES ATLAS; DAM STATUS

(a) Submission to Department. Annually on or before January 1, the Public Service Board and the Secretary of Agriculture, Food and Markets shall submit to the Department the presence, location, and hazard potential classification of any dam previously within its jurisdiction learned of within the previous calendar year.

(b) Update of Natural Resources Atlas. Beginning on January 1, 2018, the Secretary of Natural Resources shall update the Natural Resources Atlas on the

Agency of Natural Resources' website to include the status of dams identified on the Atlas. The Atlas shall include all information submitted under subsection (a) of this section and the presence, location, and hazard potential classification of any dam within the jurisdiction of the Department. The Department shall include on the Atlas the person owning legal title to the dam, if known.

(c) Additional information. The Department may enter a memorandum of understanding with the Public Service Board and the Secretary of Agriculture, Food and Markets regarding additional information regarding dams to be submitted to the Department under this section.

* * * Transfer of PSB Dams to the Department of
Environmental Conservation * * *

Sec. 2. FORMER PUBLIC SERVICE BOARD RULES; INSPECTION

Public Service Board Rule 4.500 Safety of Hydroelectric Dams, as that rule existed immediately prior to the effective date of this act, shall be deemed a rule of the Department of Environmental Conservation for purposes of administering the requirements of 10 V.S.A. chapter 43 for safety and inspection of dams that relate to or are incident to the generation of electric energy for public use or that are part of a public utility system. The Secretary of Natural Resources may amend the rule in accordance with 3 V.S.A. chapter 25. The Department shall maintain the rules for the safety of hydroelectric dams separately from rules authorized for adoption under 10 V.S.A. chapter 43.

* * * Dam Registration Report * * *

Sec. 3. DAM REGISTRATION PROGRAM REPORT

On or before January 1, 2019, the Department of Environmental Conservation shall submit a report to the House Committees on Natural Resources, Fish and Wildlife and on Ways and Means, and the Senate Committees on Natural Resources and Energy and on Finance. The report shall contain:

(1) an evaluation of the dam registration program under 10 V.S.A. chapter 43;

(2) a recommendation on whether to modify the fee structure of the dam registration program;

(3) a summary of the dams registered under the program, organized by amount of water impounded and hazard potential classification; and

(4) an evaluation of any other dam safety concerns related to dam registration.

* * * Implementation * * *

Sec. 4. ADOPTION OF RULES

The Secretary of Natural Resources shall adopt the rules required under 10 V.S.A. § 1110 regarding the regulation of dams on or before July 1, 2018.

* * * Effective Dates * * *

Sec. 5. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except that:

(1) 10 V.S.A. §§ 1083 and 1085 shall take effect on January 2, 2018; and

(2) the requirement to register a dam under 10 V.S.A. § 1108 shall take effect on July 1, 2019.

(Committee Vote: 6-3-0)

H. 111

An act relating to vital records

Rep. Devereux of Mount Holly, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * General Provisions Related to Vital Records * * *

Sec. 1. 18 V.S.A. § 4999 is added to 18 V.S.A. chapter 101 to read:

§ 4999. DEFINITIONS

As used in this part, unless the context requires otherwise:

(1) “Issuing agent” means a town clerk or duly authorized representative of the State Registrar who issues certified and noncertified copies of birth and death certificates from the Statewide Registration System.

(2) “Licensed health care professional” means a physician, a physician assistant, or an advanced practice registered nurse.

(3) “Municipality” or “town” means a city, town, village, unorganized town or gore, or town or gore within the unified towns and gores of Essex County.

(4) “Noncertified copy” means a copy of a vital event certificate issued by a public agency as defined in 1 V.S.A. § 317, other than a certified copy.

(5) “Office of Vital Records” means an office of the Department of Health responsible for the Statewide Registration System and with the authority over vital records provided by law.

(6) “Registrant” means the individual who is the subject of a vital event certificate.

(7) “Statewide Registration System” or “System” means:

(A) the sole official repository of data from birth and death certificates registered on or after January 1, 1909; and

(B) such other data related to vital records as the State Registrar may prescribe.

(8) “Town clerk” or “municipal clerk” or “clerk” means a town clerk, a city clerk, a county clerk acting on behalf of an unorganized town or gore, or the supervisor of the unified towns and gores of Essex County, or a town official or employee designated by the same to act on his or her behalf.

(9) “Vital event certificate” means a birth, death, marriage, or civil union certificate or a report of divorce, annulment, or dissolution. “Vital event certificate” does not include any confidential portion of a report of birth or of death or of a marriage or civil union license or application therefor.

(10) “Vital record” means:

(A) a report of birth, death, fetal death, or induced termination of pregnancy or a preliminary report of death;

(B) a vital event certificate;

(C) a marriage or civil union license;

(D) a burial-transit permit; and

(E) any other records associated with the creation, registration, processing, modification, or disclosure of the records described in this subdivision (10).

Sec. 2. 18 V.S.A. § 5020 is redesignated to read:

§ 5020 ~~5000. SUPERVISOR OF VITAL RECORDS STATE REGISTRAR; DUTIES; AUTHORITY; STATEWIDE REGISTRATION SYSTEM; ISSUING AGENTS~~

Sec. 3. 18 V.S.A. § 5000 is amended to read:

§ 5000. STATE REGISTRAR; DUTIES; AUTHORITY; STATEWIDE REGISTRATION SYSTEM; ISSUING AGENTS

~~(a) The commissioner~~ Commissioner shall designate a member of the ~~department~~ Department as ~~supervisor of vital records registration who~~ the State Registrar. The State Registrar shall head the Office of Vital Records, and shall provide consultation to town and county clerks, hospital personnel, physicians licensed health care professionals, midwives, funeral directors,

clergy, probate judges, and all other persons involved in vital records registration for the purpose of promoting uniformity of procedures in reaching an order to promote the complete, accurate, and timely, and lawful creation, registration, processing, modification, and disclosure of vital records.

(b) The Commissioner may exercise any authority granted to or fulfill any duties conferred on the State Registrar under this part or any other provision of law related to vital records, and the State Registrar may delegate the exercise of his or her authority or the performance of his or her duties to a duly authorized representative.

(c)(1) The State Registrar shall operate the Statewide Registration System, which shall be the sole official repository of data from birth and death certificates registered on or after January 1, 1909. The State Registrar shall create and maintain an index which, at a minimum, will enable the public to search contents of the System by the name of the registrant and the date of the vital event.

(2) Birth and death certificates registered prior to January 1, 1909:

(A) shall not be incorporated into the Statewide Registration System;

(B) shall be maintained at the offices of town clerks as specified in section 5007 of this title; and

(C) shall not be eligible for amendment under this part.

(3) The State Registrar shall investigate and attempt to resolve any known discrepancy between the contents of a vital event certificate in the custody of the State Registrar and a vital event certificate maintained in the office of a town clerk. In addition, the State Registrar shall have the authority to change the contents of a birth or death certificate in the System in order to address a known error or to conform the certificate to the requirements of a court order. The State Registrar shall record and maintain in the System the nature and content of a change made in the System, the identity of the person making the change, and the date of the change.

(4) Except as authorized under subdivision 5073(a)(3) of this title, and except for corrections, completions, or amendments to address known errors or omissions, the State Registrar shall deny any application under this part requesting a correction, completion, or amendment of a birth or death certificate in order to change a name, and shall change a name only in accordance with a court order.

(d)(1) Except as provided in subdivision (2) of this subsection, town clerks in the State shall aid in the efficient administration of the Statewide Registration System and shall act as agents to issue copies of birth and death

certificates from the Statewide Registration System in accordance with section 5016 of this title.

(2) By filing a written notice with the State Registrar, a town clerk may opt out of serving as an issuing agent.

(e) The State Registrar shall, consistent with the requirements of this part:

(1) administer the Statewide Registration System and fulfill the duties assigned to him or her under this part;

(2) provide for the preservation and security of the official records of the Office of Vital Records, and for the matching of birth and death records in order to prevent the fraudulent use of birth and death certificates of deceased persons;

(3) promote uniformity of policy and procedures pertaining to vital records and vital statistics throughout the State;

(4) prescribe the contents and form of vital record reports, vital event certificates, and related applications and documents; prescribe the contents and form of burial-transit permits; and distribute the same;

(5) maintain a Vital Records Alert System in order to track and prevent misrepresentation, fraud, or illegal activities in connection with vital records;

(6) implement audit and quality control procedures as necessary to ensure compliance with vital records filing and reporting requirements;

(7) prescribe:

(A) the contents and form of applications for a certified copy of birth or death certificate after consultation with the Vermont Municipal Clerks' & Treasurers' Association;

(B) the manner in which vital records required to be submitted to him or her shall be submitted;

(C) physical requirements and security standards for storage of vital event certificates and related supplies, after consideration of best practices issued by state and federal law enforcement and public health organizations;

(D) the manner in which the Department of Public Safety shall furnish lists of missing and kidnapped children to the State Registrar; and

(E) procedures governing the public's inspection of birth and death certificates, if necessary to protect the integrity of the certificates or

to deter fraud;

(8) adopt rules governing:

(A) acceptable content and limitations on the number of characters on a birth certificate;

(B) acceptable forms of identification required in connection with applications for certified copies of birth and death certificates; and

(C) the process for denying a certified copy of a birth or death certificate based on a Vital Records Alert System match or evidence of fraud or misrepresentation, notifying affected persons of the denial, and investigating and resolving the issue identified.

(f) The State Registrar may adopt rules as may be necessary to carry out his or her duties under this part.

Sec. 4. 18 V.S.A. § 5001 is amended to read:

§ 5001. VITAL RECORDS; FORMS OF CERTIFICATES DUTIES OF CUSTODIANS

~~(a) Certificates of birth, marriage, civil union, divorce, death, and fetal death shall be in form prescribed by the commissioner of health and distributed by the department of health.~~

~~(b) Beginning on January 1, 2010, all certificates of birth, marriage, civil union, divorce, death, and fetal death certified copies of vital event certificates shall be issued on unique paper with antifraud features approved by the commissioner of health State Registrar and available from the department of health Office of Vital Records.~~

(b) Town custodians of vital event certificates shall ensure that the following are stored in a fireproof safe or vault:

(1) blank copies of antifraud paper;

(2) original vital event certificates; and

(3) such other records or materials as the State Registrar may prescribe.

(c)(1) The State Registrar may audit any municipal or county office that stores or issues vital records to determine its compliance with the requirements of this part and any rules adopted thereunder. The State Registrar may require an office that fails an audit to cease issuing vital records until it passes a new audit.

(2) Following a failed audit, upon request, the State Registrar shall conduct a follow-up audit within 30 days of the request.

Sec. 5. 18 V.S.A. § 5002 is amended to read:

§ 5002. RETURNS; TABLES REPORT OF VITAL STATISTICS;

PRESERVATION OF RECORDS; AUTHORITY TO ISSUE

~~The commissioner of health State Registrar shall prepare from the returns of an annual vital statistics report summarizing reports or returns of births, marriages, civil unions, deaths, fetal deaths, and divorces required by law to be transmitted to the commissioner such tables and append thereto such recommendations as he or she deems proper, and during the month of July in each even year, shall cause the same to be published as directed by the board, annulments, and dissolutions received in the prior calendar year. The commissioner State Registrar shall file and preserve all such returns. The commissioner shall periodically transmit the original returns or photostatic or photographic copies to the state archivist of marriages, divorces, annulments, and dissolutions to the State Archivist, who shall keep the returns, or photostatic or photographic copies of the returns, on file for use by the public. The commissioner and the state archivist State Registrar and the State Archivist shall each, independently of the other, have power to issue certified copies of such records vital event certificates in their custody.~~

Sec. 6. 18 V.S.A. § 5003 is amended to read:

§ 5003. FORMS MATERIALS FOR ISSUING AGENTS

~~The commissioner State Registrar shall procure and send to each town and county clerk such forms and reports of uniform size, and with margin for binding, issuing agents materials as are may be necessary to be used in compliance with the provisions of this part for the issuance of vital event certificates.~~

Sec. 7. 18 V.S.A. § 5005 is amended to read:

§ 5005. UNORGANIZED TOWNS AND GORES

(a) ~~The county clerk of a county wherein is situated where an unorganized town or gore is situated shall have the authority, perform the same duties, and be subject to the same penalties as town clerks in respect to licenses, certificates, records, and returns of parties, both of whom reside in an unorganized town or gore in such county or where one party to a civil marriage or a civil union so resides and the other party resides in an unorganized town or gore in another county or without the state. The cost of binding such certificates shall be paid by the state prescribed in this part in relation to vital records with respect to residents of the unorganized town or gore.~~

(b) ~~A report of births and deaths in unorganized towns and gores shall be made to the county clerk who shall record the same as is required in relation to such statistics in a town.~~

Sec. 8. 18 V.S.A. § 5006 is amended to read:

§ 5006. VITAL RECORDS EVENT INFORMATION PUBLISHED IN TOWN REPORTS

Town clerks ~~annually may compile and the~~ or auditors may publish in the annual town report ~~a transcript of the record of nonconfidential information and statistics concerning births, marriages, civil unions, and deaths recorded of residents during the preceding calendar year. Upon request, the State Registrar shall furnish a town clerk such information and statistics.~~

Sec. 9. 18 V.S.A. § 5007 is amended to read:

§ 5007. PRESERVATION OF DATA RECORDS

A town clerk shall receive, number, and file for record certificates of ~~births, marriages, civil unions, and deaths, and shall preserve such certificates together with the~~ and burial-transit and removal permits returned to the clerk, ~~in a fireproof vault or safe, as provided by 24 V.S.A. § 1178. A town clerk shall permanently preserve at the office of the clerk birth and death certificates registered prior to July 1, 2018, and marriage and civil union certificates.~~

Sec. 10. 18 V.S.A. § 5008 is amended to read:

§ 5008. TOWN CLERK; RECORDING AND INDEXING PROCEDURES

A town clerk shall file for record and index in volumes all marriage certificates and burial-transit permits received by the town. Each volume or series shall contain an alphabetical index. Civil marriage certificates shall be filed for record in one volume or series, ~~civil unions~~ union certificates kept in another, ~~birth certificates in another, and death certificates and burial-transit and removal permits in another. However, except that~~ in a town having less than 500 inhabitants, the town clerk may cause civil marriage, civil union, ~~birth, and death certificates, and burial-transit and removal permits to be filed for record in one volume, provided that none of such volumes shall contain more than 250 certificates and permits. All volumes shall be maintained in the town clerk's office as permanent records.~~

Sec. 11. 18 V.S.A. § 5009 is amended to read:

§ 5009. NONRESIDENTS; CERTIFIED COPIES TO TOWN OF RESIDENCE

On the first day of each month, the town clerk shall make a certified copy of each original ~~or, corrected certificate of birth, or amended civil marriage, certificate or amended civil union, and death filed certificate~~ filed in the clerk's office during the preceding month, whenever ~~the parents of a child born were, or a party to a civil marriage or a civil union or a deceased person was,~~

~~was a resident in any other Vermont town at the time of such birth, the civil marriage, or civil union, or death, and shall transmit such the certified copy to the clerk of such the other Vermont town, who shall file the same.~~

Sec. 12. 18 V.S.A. § 5010 is amended to read:

§ 5010. REPORT OF STATISTICS TRANSMITTAL OF MARRIAGE
CERTIFICATES

~~The town clerk in of each town of over 5,000 population or in a town where a general hospital as defined in subdivision 1902(1) of this title, is located, shall each week transmit to the supervisor of vital records registration State Registrar copies, duly certified, of each birth, death, marriage, and civil union certificate filed in the town in the preceding week. In all other towns, the clerk shall transmit such copies of birth, death, marriage, and civil union certificates received during the preceding month on or before the 10th day of each succeeding month.~~

Sec. 13. 18 V.S.A. § 5011 is amended to read:

§ 5011. PENALTY VIOLATIONS; PENALTIES

~~A town clerk who fails to transmit such copies of birth, marriage, civil union, and death certificates as provided in section 5010 of this title shall be fined not more than \$100.00.~~

(a)(1) A person shall not:

(A) knowingly make a false statement, or knowingly supply false information intending that such information be used, in connection with a vital record;

(B) without lawful authority and with the intent to deceive, make, counterfeit, alter, or mutilate any vital record;

(C) without lawful authority and with the intent to deceive, obtain, possess, or use, or sell or furnish to another person, any vital record that:

(i) has been counterfeited, altered, or mutilated;

(ii) is false in whole or in part; or

(iii) relates to another person, whether living or deceased;

(D) without lawful authority, possess any vital record knowing the same to have been stolen or otherwise unlawfully obtained.

(2) A person who violates this subsection shall be fined not more than \$10,000.00 or imprisoned for not more than five years, or both.

(b)(1) A person shall not:

(A) knowingly refuse to provide information that the person knows is required of him or her by this part or by rules adopted to carry out its purposes; or

(B) knowingly neglect or violate any of the provisions the person knows are imposed upon him or her by this part or knowingly refuse to perform any of the duties the person knows are imposed upon him or her by this part.

(2) A person who violates this subsection shall be fined not more than \$1,000.00 or imprisoned for not more than one year, or both.

(c) An employee of the Office of Vital Records or any issuing agent who knowingly furnishes or processes a certified copy of a vital event certificate with the knowledge or intention that it may be used for the purposes of deception shall be fined not more than \$10,000.00 or imprisoned for not more than five years, or both.

(d) The Commissioner or a hearing officer designated by the Commissioner may, after notice and an opportunity for hearing, impose a civil administrative penalty of not more than \$250.00 against a person who fails to perform any duty imposed or violates a prohibition under this part. A hearing under this subsection shall be a contested case subject to the provisions of 3 V.S.A. chapter 25, and the provisions of 3 V.S.A. §§ 809(h), 809a, and 809b related to subpoenas shall extend to the Commissioner, a hearing officer appointed by the Commissioner, and licensed attorneys representing a party.

Sec. 14. 18 V.S.A. § 5013 is amended to read:

§ 5013. TOWN CLERK; SINGLE INDEX BIRTHS AND DEATHS

A town clerk shall prepare and keep a single index of births and deaths in alphabetical order, except as provided by 24 V.S.A. § 1153. [Repealed.]

Sec. 15. 18 V.S.A. § 5014 is added to read:

§ 5014. CONFIDENTIALITY

(a)(1) A vital record, or information therein, that by law is designated confidential or by a similar term, that by law may only be disclosed to specifically designated persons, or that by law is not a public record, is exempt from inspection and copying under the Public Records Act and shall be kept confidential to the extent provided by law.

(2) Records or information described in subdivision (1) of this subsection may be disclosed:

(A) for public health or research purposes in accordance with law;

(B) to a regulatory or law enforcement agency for enforcement

purposes, if the agency has agreed to accept the terms of an agreement with the Office of Vital Records governing use and confidentiality of the information;

(C) to the vital records office of another state, if the subject of the vital record was a resident of the other state at the time of the vital event that led to creation of the record; or

(D) in a summary, statistical, or other format in which particular individuals are not identified directly or indirectly.

(b)(1) Except as otherwise provided in subdivision (a)(2) of this section and subdivision (2) of this subsection, the following information is exempt from public inspection and copying under the Public Records Act, shall be kept confidential, and, in any civil action, shall not be subject to discovery or subpoena or be admissible:

(A) Social Security information and information collected only for medical and health purposes in reports of birth;

(B) Social Security numbers in reports of death or in preliminary reports of death;

(C) prior marriage and legal guardianship information and elections to dissolve a civil union in a marriage or civil union license or license application;

(D) such other information contained in a vital record as the State Registrar may designate through a rule adopted pursuant to 3 V.S.A. chapter 25, but only if the designation is necessary to protect the privacy of an individual.

(2) The person who is the subject of the record or his or her authorized representative shall be entitled to obtain a copy of the information.

(c) Information in or received from the Vital Records Alert System is exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that, in addition to the exceptions to confidentiality provided in subdivision (a)(2) of this section, such information may be shared with an issuing agent in order to correct and prevent mistakes and criminal activity.

Sec. 16. 18 V.S.A. § 5015 is amended to read:

~~§ 5015. STATISTICS BY HEAD OF FAMILY BECOMING RESIDENT~~

~~The head of a family who moves into and becomes a permanent resident of this state may cause to be recorded in the office of the clerk of the town where he or she resides, or if he or she resides in an unorganized town or gore, in the office of the clerk of the county wherein he or she resides, a certificate of his~~

~~or her marriage embracing the statistics required by law, and may also cause to be recorded the birth of any of his or her children born without the state, with the statistics relating to such birth required by law, and shall make oath to the correctness of such statistics. Such record shall not be returned to the commissioner. [Repealed.]~~

Sec. 17. 18 V.S.A. § 5016 is added to read:

§ 5016. BIRTH AND DEATH CERTIFICATES; COPIES; INSPECTION

(a) Access and issuance generally.

(1) Except as provided in subdivisions (2) and (3) of this subsection:

(A) only the State Registrar and issuing agents may issue certified copies of birth and death certificates registered before July 1, 2018, and such certificates shall only be issued from the Statewide Registration System; and

(B) only the State Registrar and issuing agents may issue certified or noncertified copies of birth and death certificates registered on or after July 1, 2018, and such certificates shall only be issued from the Statewide Registration System.

(2) Copies of birth and death certificates registered prior to January 1, 1909 shall not be issued from the Statewide Registration System. Any town clerk may issue a certified copy of a pre-1909 birth or death certificate, provided he or she fulfills the requirements of subsection (b) of this section and such additional requirements as the State Registrar may prescribe as necessary to track antifraud paper used to produce such copies.

(3) A certified or noncertified birth or death certificate shall only be issued as authorized and prescribed in this section, except that in either of the following circumstances, a public agency may issue a noncertified copy even if it does not follow the requirements of this section governing noncertified copies:

(A) if the public agency is an agency other than the Office of Vital Records, the Vermont State Archives and Records Administration, or the office of a town or county, and the public agency has custody of a birth or death certificate acquired in the course of its business; or

(B) if the birth or death certificate was filed in the records of a town or county office, such as land records, for a reason unrelated to its official role under law as a repository of registered birth or death certificates.

(4) The word “illegitimate” shall be redacted from any certified or noncertified copy of a birth certificate.

(5) If necessary to prevent fraud, the State Registrar may limit the issuance of a certified or noncertified copy of a certificate of live birth for a foreign born child in the same manner as copies of birth certificates are limited under this section.

(b) Certified copies.

(1) The State Registrar and issuing agents may issue certified copies of birth and death certificates only upon receipt of a complete application accompanied by a form of identification prescribed in rules adopted by the State Registrar. The State Registrar and issuing agents shall record in a database maintained by the State Registrar any application received.

(2) Only the following persons shall be eligible for a certified copy of a birth or death certificate:

(A) the registrant or his or her spouse, child, parent, sibling, grandparent, guardian, or petitioner for appointment as executor, or the legal representative of any of these;

(B) a specific person pursuant to a court order finding that a noncertified copy is not sufficient for the applicant's legal purpose and that a certified copy of the birth or death certificate is needed for the determination or protection of a person's right; or

(C) in the case of a death certificate only, additionally to:

(i) the individual with authority for final disposition as provided in section 5227 of this title or a funeral home or crematorium acting on the individual's behalf;

(ii) the Social Security Administration;

(iii) the U.S. Department of Veterans Affairs; or

(iv) the deceased's insurance carrier, if such carrier provides benefits to the decedent's survivors or beneficiaries.

(3) Antifraud paper. Certified copies of birth and death certificates shall be issued only on unique paper with antifraud features approved by the State Registrar.

(4) Legal effect. A certified copy of a birth or death certificate shall be prima facie evidence of the facts stated therein.

(c) Noncertified copies.

(1) Form. A noncertified copy of a birth or death certificate issued from the Statewide Registration System shall indicate the term "Noncertified" on its face.

(2) Legal effect. A noncertified copy of a birth or death certificate shall

not serve as prima facie evidence of the facts stated therein, except that it may be recorded in the land records of a municipality to establish the date of birth or death of a person with an ownership interest in property.

(d) Inspection. In addition to the provisions of the Public Records Act, the State Registrar may prescribe procedures governing the inspection of birth and death certificates if necessary to protect the integrity of the certificates or to prevent fraud.

Sec. 18. 18 V.S.A. § 5017 is added to read:

§ 5017. FEES FOR COPIES AND SEARCHES

For a certified copy of a vital event certificate, the fee shall be \$10.00.

* * * Divorce and Dissolution Records * * *

Sec. 19. 18 V.S.A. § 5004 is amended to read:

§ 5004. FAMILY DIVISION OF THE SUPERIOR COURT CLERKS;
DIVORCE AND DISSOLUTION RETURNS

The ~~family division of the superior court clerk~~ Family Division of the Superior Court shall send to the ~~commissioner~~ State Registrar, before the 10th day of each month, by county, a report of the number of divorces ~~which and dissolutions that~~ became absolute during the preceding month, showing as to each the names of the parties, date of civil marriage or civil union, number of children, grounds for divorce or dissolution, and such other statistical information available from the ~~family division of the superior court clerk's file~~ Family Division as may be required by the ~~commissioner~~ State Registrar.

* * * Birth Records * * *

Sec. 20. 18 V.S.A. § 5071 is amended to read:

§ 5071. BIRTH REPORTS AND CERTIFICATES; WHO TO MAKE;
RETURN

(a) On or before the fifth business day of each live birth that occurs in this State, the attending physician or designee or midwife or, if no attending physician or midwife is present, a parent of the child or a legal guardian of a mother under 18 years of age shall file with the ~~town clerk~~ State Registrar a certificate report of birth in the form and manner prescribed by the ~~Department~~ State Registrar. The ~~certificate shall be registered~~ State Registrar shall register the report in the Statewide Registration System if it has been completed properly and filed in accordance with this chapter. The portion of the registered birth report that is not confidential under section 5014 of this title is the birth certificate.

(b) At the time of the birth of a child, each parent shall furnish the

~~following information on a form provided for that purpose by the Department of Health to enable completion of the report of birth required under subsection (a) of this section: the parent's name, address, and Social Security number and the name and date of birth of the child. The forms and a copy of the birth certificate shall be filed with the Department of Health on or before the fifth day after the birth of the child.~~

(c)(1) Whoever assumes the custody of a live-born infant of unknown parentage shall complete a certificate file a report of birth as follows:

~~(A) name of the child as given by the custodian, and sex;~~

~~(B) approximate date of birth as determined in consultation with a physician;~~

~~(C) place of birth as place where the child is found;~~

~~(D) in place of certifier, the custodian shall sign and indicate "custodian" rather than "attendant," with date and address; and~~

~~(E) parentage data and other child's data items shall be left blank with the State Registrar in the form and manner prescribed by the State Registrar.~~

(2) If the child is identified and a certificate of birth is found or obtained, the report and any certificate created under this section and copies thereof shall be ~~sealed and deposited with the Commissioner of Health~~ State Registrar and kept confidential, to be opened upon court order only.

(d) The name of the father shall be included on the report of birth and on any birth certificate of the child of unmarried parents only if the father and mother have signed a voluntary acknowledgment of parentage or a court or administrative agency of competent jurisdiction has issued an adjudication of parentage.

(e) When a birth certificate is issued, a parent or parents shall be identified with gender-neutral nomenclature.

Sec. 21. 18 V.S.A. § 5072 is amended to read:

§ 5072. NOTICE TO PARENT FOR CORRECTION OR COMPLETION

~~The supervisor of vital records registration shall, within~~ Within three months after each birth ~~which that~~ occurs in the state State, except for the birth of a child known to have died or to have been surrendered for adoption, the State Registrar shall send a notice of birth registration to the parents of the child. ~~Such~~ The notice shall contain the pertinent facts such as the child's full name, date and place of birth, and the names of the parents, with instructions and a form on which to apply for corrections or additions.

Sec. 22. 18 V.S.A. § 5073 is amended to read:

§ 5073. AMENDMENT OF MINOR ERRORS ON BIRTH CERTIFICATE CORRECTIONS, COMPLETIONS

~~(a)(1) Within~~ Except as otherwise provided in subdivision (2) of this subsection, within six months after the date of birth, ~~amendment of obvious errors, transpositions of letters in words of common knowledge, or omissions, may be made by the town clerk either upon his or her own observation or the State Registrar may correct or complete a birth certificate in the Statewide Registration System upon request~~ application of a parent, the hospital, in which the birth occurred, or the certifying attendant, ~~or the supervisor of vital records registration.~~

(2) At any time after the date of birth, the State Registrar may complete a birth certificate to add the name of a father only upon request of the registrant or his or her parent or guardian and upon the receipt of:

(A) a properly executed voluntary acknowledgment of parentage; or

(B) a decree of a court or administrative agency of competent jurisdiction adjudicating parentage.

(3) Within six months after the date of birth, the State Registrar may complete or change the name of a child upon joint application of the parents or upon application of the parent if only one parent is listed on the birth certificate. A court order shall not be required except for completions or changes of name more than six months after the date of birth.

(b) If the State Registrar determines that a correction or completion requested under this section is unwarranted, he or she may deny an application, in which case the applicant may petition the Probate Division of the Superior Court. The court shall review the petition and relevant evidence de novo to determine if the correction or completion is warranted. The court shall transmit a decree ordering a correction or completion to the State Registrar, who shall correct or complete the certificate in accordance with the decree.

(c) The amended A corrected or completed certificate shall be free of any evidence of such correction except that the clerk shall make a notation as to the change and shall not be marked "Amended." However, the State Registrar shall record and maintain in the Statewide Registration System the source of the information, together with his or her name the nature and content of the change, the identity of the person making the change, and the date the change was made, on the margin of the certificate. This notation shall not be included on any certified copy of the certificate issued except as specified in subsection (b) of this section. The certificate shall not be marked "Amended."

~~(b) The town clerk shall send a certified copy of any certificate amended~~

~~under subsection (a) of this section to the commissioner and also to the clerk of any town to whom a copy of the original record was sent under the provisions of section 5009 of this title, and shall enclose with that copy, but not endorsed thereon, a notation identifying the copy to be replaced. The copy shall show the notations specified in subsection (a) of this section. The commissioner shall file this return or copy by attaching the same to the original return or copy.~~

(d) If the State Registrar corrects or completes a certificate that was registered prior to July 1, 2018, he or she shall notify the town clerk or clerks with custody of the certificate, who shall replace and dispose of the uncorrected certificate and update indexes as directed by the State Registrar. Corrected or completed originals shall not be marked "Amended."

Sec. 23. 18 V.S.A. § 5074 is amended to read:

§ 5074. PENALTY

A person who fails to comply with a provision of sections 5071-5073 of this title shall be ~~fin~~ed \$5.00 subject to the penalties prescribed in section 5011 of this title.

Sec. 24. 18 V.S.A. § 5075 is amended to read:

§ 5075. ISSUANCE OF ~~NEW OR CORRECTED~~ AMENDED OR DELAYED BIRTH CERTIFICATE BY PROBATE DIVISION OF THE SUPERIOR COURT APPLICATION

~~(a) After~~ Except as otherwise provided in subdivision 5073(a)(2) of this title, after six months from the date of birth, any alteration of the birth certificate of a person born in this state may be amended only by the decree of the probate division of the superior court of the district in which such birth occurred. State shall be deemed an amendment. A petition for such amendment may be brought by the person, the person's Upon application by the registrant, his or her parent or guardian, the hospital in which the birth occurred, or the certifying attendant, or custodian setting forth the reason for such petition and the correction or amendment desired and the reason for it, the State Registrar may amend the birth certificate if the application and relevant evidence, if any, show that the amendment is warranted.

~~(b) A person born in this state~~ State for whom no certificate of birth was filed during the first year following birth, or his or her parent or guardian, may ~~petition the probate division of the superior court of the district in which such person was born~~ apply to the State Registrar to determine the facts with respect to this the birth and to ~~order the issuance of~~ issue a delayed certificate of birth.

~~(b) Birth certificates issued under this section for minor errors as defined in subsection 5073(a) of this title shall be corrected without payment of a fee.~~

(c) If the State Registrar denies an application under this section, the applicant may petition the Probate Division of the Superior Court, which shall review the application and relevant evidence de novo to determine if the amendment or issuance of a delayed certificate is warranted. The court shall transmit a decree ordering an amendment or issuance of a delayed certificate to the State Registrar, who shall amend or issue the certificate in accordance with the decree.

(d) The State Registrar shall make any amendment and register any delayed certificate in the Statewide Registration System. Any amended birth certificate issued from the System shall indicate the word "Amended" and the date of amendment, and any delayed certificate issued from the System shall indicate the word "Delayed" and the date of registration. The State Registrar shall record and maintain in the System the identity of the person requesting the amendment or delayed certificate, the nature and content of the change made in the System, the person who made the amendment or registered the delayed certificate in the System, and the date of the amendment or registration.

(e) If the State Registrar amends a certificate that was registered prior to July 1, 2018, he or she shall notify the town clerk or clerks with custody of the certificate, who shall replace and dispose of the unamended certificate and update indexes as directed by the State Registrar.

Sec. 25. 18 V.S.A. § 5076 is amended to read:

§ 5076. NOTICE; HEARING; DECREE; RECORD

~~(a) The probate division of the superior court shall set a time for hearing on a petition filed under section 5075 of this title, cause notice thereof, if it deems such necessary, by posting a notice in the probate office, and after hearing such proper and relevant evidence as may be presented shall make findings with respect to the birth of such person as are supported by the evidence.~~

~~(b) The court shall thereupon issue a decree setting forth the facts as found and transmit a certified copy thereof to the supervisor of vital records registration.~~

~~(1) Where the certificate is to be amended, the supervisor of vital records registration shall transmit the decree to the town clerk where the birth occurred, with instructions to amend the original certificate. A correction shall be made by drawing a line through the matter to be corrected and writing in new matter as required to show the legal effects. The town clerk shall stamp, write or type the words "Court Amended" at the top of the amended certificate and all copies thereof and shall certify that the amendment was ordered by said court pursuant to this chapter with the date of decree. The town clerk shall~~

send a certified copy of such completed or corrected birth record, showing new matter added, or changed matter lined out and the substituted matter as it appears thereon, to the commissioner and also to the clerk of any town to whom a copy of the original record was sent under the provisions of section 5009 of this title, and shall enclose with that copy, but not endorsed thereon, a notation identifying the original.

(2) Where a delayed certificate is to be issued, the supervisor of vital records registration shall prepare a delayed certificate of birth on forms prescribed by the department and transmit the same, with the decree, to the clerk of the town in which the birth occurred. This delayed certificate shall have the word "Delayed" printed at the top and shall certify that the certificate was ordered by a court pursuant to this chapter, with the date of the decree. The town clerk shall file this delayed certificate and shall follow the provisions of sections 5009 and 5010 of this title with respect to transmitting copies to the town of residence and to the department of health.

(3) Town clerks receiving new certificates in accordance with this section shall file and index them in the most recent book of births and also index them with births occurring at the same time. [Repealed.]

Sec. 26. 18 V.S.A. § 5077 is amended to read:

§ 5077. ~~NEW BIRTH CERTIFICATE OF CHILD OF UNWED PARENTS WHO SUBSEQUENTLY MARRY~~

(a) ~~A person whose previously unwed parents have intermarried subsequent to his or her birth and whose father has recognized such person as his child may establish his or her legitimacy under the provisions of 14 V.S.A. § 554 and the facts with respect to his or her birth and parentage, and procure the issuance and filing of a new birth certificate by petition to the probate division of the superior court of the district where the child was born.~~

(b) ~~The probate division of the superior court, after hearing, shall issue a decree setting forth the facts as found and shall transmit a certified copy thereof to the supervisor of vital records registration, who shall prepare a new certificate and transmit it together with the decree and such information as is necessary to identify the original birth certificate, to the clerk of the town where the child was born.~~

(c) ~~The clerk shall file and index the new certificate in the most recent book of births, shall also index them with births occurring at the same time and shall otherwise comply with the provisions of sections 5080 and 5081 of this title. The new certificate shall contain a notation that it was issued by authority of this chapter, and it shall not contain the word "Amended" or other special designation. [Repealed.]~~

Sec. 27. 18 V.S.A. § 5077a is amended to read:

§ 5077a. NEW BIRTH CERTIFICATE DUE TO PARENTAGE NOMENCLATURE ON FORMER REPORT OF BIRTH FORM

(a) If a parent of a person born in this State was unable to be listed as a parent on the person's birth certificate due to the lack of gender-neutral nomenclature on the former report of birth information form forms provided by the Department of Health, and the person or the person's parent ~~may petition the Probate Division of the Superior Court of the district where the person was born in order to establish his or her parentage and be issued a new~~ submits sufficient proof of parentage to the State Registrar, the State Registrar shall complete the birth certificate in the State Registration System. The State Registrar shall record in the System the identity of the person requesting the new certificate, the nature and content of the change, the person who made the change, and the date of the change. The State Registrar shall issue a new birth certificate from the System which shall not contain the word "Amended" or other special designation, and shall notify the town clerk or clerks with custody of the certificate, who shall replace the original with the new certificate and update indexes as directed by the State Registrar. The town clerk or clerks shall send the original to the State Registrar, who shall keep it confidential.

~~(b) The Probate Division of the Superior Court, after hearing, shall authorize the supervisor of vital records registration to issue a new birth certificate and transmit it, together with any information identifying the original birth certificate, to the clerk of the town where the person was born. [Repealed.]~~

~~(c) The clerk shall file and index the new certificate in the most recent book of births, shall also index them with births occurring at the same time, and shall otherwise comply with the provisions of sections 5080 and 5081 of this title. The new certificate shall contain a notation that it was issued by authority of this chapter, and it shall not contain the word "Amended" or other special designation. [Repealed.]~~

Sec. 28. 15A V.S.A. § 3-801 is amended to read:

§ 3-801. REPORT OF ADOPTION TO STATE REGISTRAR OF VITAL RECORDS

(a) Within 30 days after a decree of adoption becomes final, the clerk of the court shall ~~prepare, send, and certify to the State Registrar of Vital Records~~ a report of adoption on a form furnished prescribed by the supervisor of vital records and certify and send the report to the supervisor State Registrar. The report shall include:

(1) information in the court's record of the proceeding for adoption ~~which~~ that is necessary to locate and identify the adoptee's birth certificate or, in the case of an adoptee born outside the United States, evidence the court finds appropriate to consider as to the adoptee's date and ~~place~~ country, state, and municipality of birth, as may be available;

(2) information necessary to issue a new birth certificate for the adoptee and a request that a new certificate be issued, unless the court, the adoptive parent, or an adoptee who ~~has attained~~ is 14 years of age or older requests that a new certificate not be issued; and

(3) the file number of the decree of adoption and the date on which the decree became final.

(b) Within 30 days after a decree of adoption is amended or set aside, the clerk of the court shall prepare and send to the State Registrar a report of that action on a form furnished prescribed by the ~~supervisor of vital records and~~ shall ~~certify and send the report to the supervisor of vital records~~ State Registrar. The report shall include information necessary to identify the original report of adoption, and shall also include information necessary to amend or withdraw any new birth certificate that was issued pursuant to the original report of adoption.

Sec. 29. 15A V.S.A. § 3-802 is amended to read:

§ 3-802. ISSUANCE OF NEW, AMENDED BIRTH CERTIFICATE

(a) Except as otherwise provided in subsection (d) of this section, upon receipt of a report of adoption prepared pursuant to ~~section 3-801~~ subsection 3-801(a) of this title, a report of adoption prepared in accordance with the law of another state or country, a certified copy of a decree of adoption together with information necessary to identify the adoptee's original birth certificate and to issue a new certificate, or a report of an amended adoption prepared pursuant to subsection 3-801(b) of this title, the ~~supervisor of vital records~~ State Registrar shall either:

(1) ~~issue a new birth certificate~~ for an adoptee born in this state State, update the Statewide Registration System in accordance with the decree and furnish a certified copy of the a new birth certificate to the adoptive parent and to an adoptee who ~~has attained~~ is 14 years of age or older;

(2) ~~forward a certified copy of a report of adoption~~ for an adoptee born in another state, forward a certified copy of the report of adoption to the ~~supervisor of vital records~~ appropriate office of the state of birth;

(3) ~~issue a certificate of foreign birth~~ for an adoptee adopted in this state and State who was born outside the United States and was not a citizen of the United States at the time of birth, create and register in the Statewide

Registration System a “certificate of live birth for a foreign born child” upon request and in the form specified in 18 V.S.A. § 5078a, and furnish a certified copy of the certificate to the adoptive parent and to an adoptee who has attained is 14 years of age or older;

~~(4) notify an adoptive parent of the procedure for obtaining a revised birth certificate through the United States Department of State for an adoptee born outside the United States who was a citizen of the United States at the time of birth, notify the adoptive parent of the procedure for obtaining a revised birth certificate through the U.S. Department of State; or~~

(5) in the case of an amended decree of adoption, ~~issue an amended birth certificate according to~~ either update the Statewide Registration System in accordance with the decree and follow the procedure in subdivision (a)(1) or (3) of this section, or follow the procedure in subdivision (2) or (4) of this section.

(b) Unless otherwise specified by the court, a new birth certificate or certificate of live birth for a foreign born child issued pursuant to subdivision (a)(1) or (3) or an amended certificate issued pursuant to subdivision (a)(5) of this section shall:

(1) be signed by the ~~supervisor of vital records~~ State Registrar;

(2) include the date, time, and place of birth of the adoptee;

(3) substitute the name of the adoptive parent for the name of the person listed as the adoptee’s parent on the original birth certificate;

~~(4) include the filing date of the original birth certificate and the filing date of the new birth certificate; [Repealed.]~~

(5) contain any other information prescribed by the ~~supervisor of vital records~~ State Registrar.

~~(c) The supervisor of vital records, and any other custodian of such records, In the case of birth certificates registered prior to July 1, 2018 that are to be replaced or amended pursuant to subdivision (a)(1) or (5) of this section, the State Registrar shall notify the town clerk or clerks with custody of the certificate, who shall substitute the new or amended birth certificate for the original birth certificate. The original certificate and all copies of the certificate in the files shall be sealed and shall not be subject to inspection or copying until 99 years after the adoptee’s date of birth, except as provided by this title.~~

(d) If the court, the adoptive parent, or an adoptee who ~~has attained is~~ 14 years of age or older requests that a new or amended birth certificate not be issued, the ~~supervisor of vital records may~~ State Registrar shall not issue a new

or amended certificate for an adoptee pursuant to subsection (a) of this section; ~~but~~. Nonetheless, for an adoptee born in another state, the State Registrar shall forward a certified copy of the report of adoption or of an amended decree of adoption for an adoptee who was born in another state to the appropriate office in the adoptee's state of birth.

(e) Upon receipt of a report that an adoption has been ~~vacated~~ set aside, the ~~supervisor of vital records~~ State Registrar shall:

(1) ~~restore the original birth certificate for a person born in this state to its place in the files, State for whom a new birth certificate was issued, update the Statewide Registration System to reflect the original birth certificate data and, in the case of an original birth certificate registered prior to July 1, 2018, notify the town clerk or clerks with custody of the certificate, who shall seal any new or amended birth certificate issued pursuant to subsection (a) of this section, restore the original, update indexes as directed by the State Registrar, and not allow inspection or copying of a the sealed certificate except upon court order or as otherwise provided in this title;~~

(2) ~~forward the report with respect to~~ for a person born in another state, ~~forward the report to the appropriate office in the state of birth; or~~

(3) for an adoptee born outside the United States who was not a citizen of the United States at the time of birth for whom a certificate of live birth for a foreign born child was issued, update the Statewide Registration System to reflect that the adoption was set aside; or

(4) ~~notify the person who is granted legal custody of a former adoptee after an adoption is vacated of the procedure for obtaining an original birth certificate through the United States Department of State for a former adoptee born outside the United States who was a citizen of the United States at the time of birth, notify the person who is granted legal custody of a former adoptee after an adoption is set aside of the procedure for obtaining an original birth certificate through the U. S. Department of State.~~

(f) Upon request by a person who was listed as a parent on an adoptee's original birth certificate and who furnishes appropriate proof of the person's identity, the ~~supervisor of vital records~~ State Registrar shall give the person a noncertified copy of the original birth certificate.

Sec. 30. 18 V.S.A. § 5078 is amended to read:

§ 5078. ADOPTION; NEW AND AMENDED BIRTH CERTIFICATE

(a) ~~The supervisor of vital records registration shall establish a new birth certificate for a person born in the state when the supervisor~~ When the State Registrar receives a record report of adoption, a report of an amended adoption, or a report that an adoption has been set aside as provided in 15

~~V.S.A. § 449 15A V.S.A. § 3-801~~, or a record of adoption prepared and filed in accordance with the laws of another state or foreign country, he or she shall proceed as prescribed in 15A V.S.A. § 3-802.

~~(b) The new birth certificate shall be on a form prescribed by the commissioner of health. The new birth certificate shall include:~~

~~(1) the actual place and date of birth;~~

~~(2) the adoptive parents as though they were natural parents;~~

~~(3) If prior to July 1, 2018 a new birth certificate was issued following an adoption which contains a notation that it was issued by authority of this chapter, contains the filing dates of the original and the new birth certificate, or otherwise contains information that facially distinguishes it from an original, the adoptive parent or the adoptee if 14 years of age or older may apply to the State Registrar to issue a replacement birth certificate that does not contain distinguishing information. The State Registrar shall issue the replacement and notify any town clerk with custody of the version that contains distinguishing information, who shall substitute the latter with the replacement birth certificate. The town clerk shall send the version that contains distinguishing information to the State Registrar, who shall keep it confidential.~~

~~(c) The new birth certificate shall not contain a statement whether the adopted person was illegitimate. [Repealed.]~~

~~(d) The new certificate, and sufficient information to identify the original certificate, shall be transmitted to the clerk of the town of birth to be filed according to the procedures in 15 V.S.A. § 451. [Repealed.]~~

~~(e) The supervisor of vital records registration shall not establish a new birth certificate if the supervisor receives, accompanying the record of adoption, a written request that a new certificate not be established:~~

~~(1) from the adopted person if 18 years or older; or~~

~~(2) from the adoptive parent or parents if the adopted person is under 18 years of age. [Repealed.]~~

~~(f) When the supervisor of vital records registration receives a record of adoption for a person born in another state, the supervisor shall forward a certified copy of the record of adoption to the state registrar in the state of birth, with a request that a new birth certificate be established under the laws of that state. [Repealed.]~~

Sec. 31. 18 V.S.A. § 5078a is amended to read:

§ 5078a. BIRTH CERTIFICATE FOR FOREIGN-BORN OF

LIVE BIRTH FOR A FOREIGN BORN CHILD ADOPTED IN VERMONT

(a) ~~The supervisor of vital records registration State Registrar shall establish a Vermont birth certificate for a person born in a foreign country in the Statewide Registration System a “certificate of live birth for a foreign born child” when the supervisor he or she receives:~~

(1) ~~a written request that a new~~ the certificate be established;

(A) ~~from the adopted person if 18~~ 14 years of age or older; or

(B) ~~from the adoptive parent or parents if the adopted person is under 18~~ 14 years of age; and

(2) ~~a record of adoption issued under the provisions of 15 V.S.A. § 449 15A V.S.A. § 3-801(a).~~

(b) ~~The new Vermont birth certificate shall be on a form prescribed by the commissioner of health. The new birth certificate shall include:~~

(1) ~~the true or probable foreign country of birth and true or probable date of birth;~~

(2) ~~the adoptive parents as though they were natural parents;~~

(3) ~~a notation that it was issued by authority of this chapter;~~

(4) ~~a statement that the certificate is not evidence of United States U.S. citizenship; and~~

(5) any other information the State Registrar may prescribe.

(c) ~~The new birth certificate shall not contain a statement whether the adopted person was illegitimate.~~

(d) ~~Birth certificates established under this section shall remain on file only at the department of health. [Repealed.]~~

(e) ~~Papers relating to the adoption shall be filed in accordance with the provisions of 15 V.S.A. § 451. [Repealed.]~~

Sec. 32. 18 V.S.A. § 5080 is amended to read:

§ 5080. **FORM AND EFFECT OF NEW CERTIFICATE**

~~All the provisions of sections 5006-5014 of this title shall be applicable with respect to a new birth certificate issued under the provisions of sections 5077 and 5078 of this title. Such A new birth certificate issued under 15A V.S.A. § 3-802 and sections 5077a and 5112 of this title shall have the same force and effect as though filed registered in accordance with the provisions of section 5071 of this title. Each certified copy of such certificate~~

and each return based thereon transmitted in accordance with the provisions of sections 5009 and 5010 of this title, shall have enclosed therewith but not endorsed thereon or attached thereto a notation identifying the copy or return, if any, to be replaced by such new copy or return.

Sec. 33. 18 V.S.A. § 5081 is amended to read:

§ 5081. FILING OF NEW CERTIFICATE

The town clerk filing a new birth certificate issued in accordance with the provisions of sections 5077 and 5078 of this title, and each town clerk or other officer to whom is transmitted a certified copy of the new certificate or a return based thereon, shall comply with 15 V.S.A. § 451. All known and available packets containing adoption orders and superseded birth certificates prepared in accordance with 15 V.S.A. §§ 449-451 and sections 5078-5081 of this title, before the effective date of this act shall be forwarded to the commissioner of health. These packets shall be filed as specified in 15 V.S.A. § 451. [Repealed.]

Sec. 34. 18 V.S.A. § 5082 is amended to read:

§ 5082. CONSTRUCTION

The provisions of sections 5077-5081 of this title shall be applicable with respect to both past and future orders, judgments, decrees, and instruments relating to marriages and births. [Repealed.]

Sec. 35. 18 V.S.A. § 5083 is amended to read:

§ 5083. PARTICIPANTS IN ADDRESS CONFIDENTIALITY PROGRAM

(a) If a participant in the program described in 15 V.S.A. chapter 21, subchapter 3 who is the parent of a child born during the period of program participation notifies the physician or midwife who delivers the child, or the hospital at which the child is delivered, not later than 24 hours 10 days after the birth of the child, that the participant's confidential address should not appear on the child's birth certificate, then the Department shall not disclose such confidential address or the participant's town of residence on any public records address shall not be maintained in the Statewide Registration System and the State Registrar, town clerks, and any other issuing agent shall ensure the confidentiality of the address during the period of program participation in accordance with measures prescribed by the State Registrar. A participant who fails to provide such notice shall be deemed to have waived the provisions of this section. ~~If such notice is received, then notwithstanding section 5071 of this title, the attendant physician or midwife shall file the certificate with the Supervisor of Vital Records within ten days of the birth, without the confidential address or town of residence, and shall not file the certificate with the town clerk.~~

~~(b) The Supervisor of Vital Records shall receive and file for record all certificates filed in accordance with this section, and shall ensure that a parent's confidential address and town of residence do not appear on the birth certificate during the period that the parent is a program participant. A certificate filed in accordance with this section shall be a public document. The Supervisor of Vital Records State Registrar shall notify the Secretary of State of the receipt of a birth certificate on behalf of that a program participant has given notice under this section.~~

~~(c) The Department State Registrar shall maintain a confidential record of the parent's actual mailing address and town of residence. Such record, which shall be exempt from public inspection and copying under the Public Records Act.~~

~~(d) Upon the renewal, expiration, withdrawal, invalidation, or cancellation of program participation of any parent of whom the Secretary of State received notice from the Supervisor of Vital Records State Registrar, the Secretary of State shall notify the Supervisor of Vital Records State Registrar.~~

~~(e) Notwithstanding section 5075 of this title, upon Upon notice of the expiration, withdrawal, invalidation, or cancellation of program participation, the supervisor of vital records registration State Registrar shall enter the update the Statewide Registration System and take such other steps as may be necessary to ensure that the actual mailing address and town of residence on the original birth certificate and shall transmit the completed original birth certificate to the town clerk where the birth occurred are available for public inspection and copying in accordance with section 5016 of this title.~~

~~(f) The town clerk shall process certificates received in this manner in accordance with the provisions of this chapter. [Repealed.]~~

Sec. 36. 18 V.S.A. chapter 20 is added to read:

CHAPTER 20. BIRTH INFORMATION NETWORK

Sec. 37. REDESIGNATION

18 V.S.A. §§ 5087–5089 (related to the Birth Information Network) are redesignated within 18 V.S.A. chapter 20 to be 18 V.S.A. §§ 991–993.

Sec. 38. 18 V.S.A. § 5112 is amended to read:

§ 5112. ISSUANCE OF NEW BIRTH CERTIFICATE; CHANGE OF SEX

~~(a) Upon receiving from the Probate Division of the Superior Court a court order that receipt of an application for a new birth certificate and after receiving sufficient evidence to determine that an individual's sexual reassignment has been completed, the State Registrar shall issue a new birth certificate to:~~

(1) show that the sex of the individual born in this State has been changed; and

(2) if the application is accompanied by a decree of the Probate Division authorizing a change of name associated with the change of sex, to reflect the change of name.

(b) An affidavit by a licensed physician who has treated or evaluated the individual stating that the individual has undergone surgical, hormonal, or other treatment appropriate for that individual for the purpose of gender transition shall constitute sufficient evidence for the ~~Court~~ State Registrar to ~~issue an order~~ determine that sexual reassignment has been completed. The affidavit shall include the medical license number and signature of the physician.

(c) A new certificate issued pursuant to subsection (a) of this section shall be substituted for the original birth certificate in official records. The new certificate shall not show that a change in name or sex, or both, has been made. The original birth certificate, the Probate Division ~~order~~ change of name decree, if any, and any other records relating to the issuance of the new birth certificate shall be confidential and shall be exempt from public inspection and copying under the Public Records Act; however an individual may have access to his or her own records and may authorize the State Registrar to confirm that, ~~pursuant to court order, it has~~ he or she issued a new birth certificate to the individual that reflects a change in name or sex, or both.

(d) If an individual born in this State has an amended birth certificate showing that the sex of the individual has been changed, and the birth certificate is marked "Court Amended" or otherwise clearly shows that it has been amended, the individual may receive a new birth certificate from the State Registrar upon application.

* * * Marriage Records * * *

Sec. 39. 18 V.S.A. § 5131 is amended to read:

§ 5131. ISSUANCE OF CIVIL MARRIAGE LICENSE; SOLEMNIZATION;
RETURN OF CIVIL MARRIAGE CERTIFICATE;
REGISTRATION

(a)(1) Upon receipt of a completed application in a form prescribed by the ~~department~~ State Registrar, which shall require both parties to sign the application certifying to the accuracy of the facts contained therein, a town clerk shall issue to a person a civil marriage license in the form prescribed by the ~~department~~ State Registrar only if at least one party has signed the license in the presence of the clerk and shall enter thereon the names of the parties to the proposed marriage; and fill out the form as far as practicable and. The

town clerk shall retain in the clerk's office a copy thereof of the license until the marriage certificate is returned by the solemnizer.

(2) ~~The department shall prescribe application forms that shall allow each party to a marriage to be designated "bride," "groom," or "spouse," as he or she chooses, and the application shall be in substantially the following form:~~

VERMONT DEPARTMENT OF HEALTH

APPLICATION FOR VERMONT LICENSE OF CIVIL MARRIAGE

~~FEE FOR CIVIL MARRIAGE LICENSE: \$45.00, FEE FOR~~

~~CERTIFIED COPY \$10.00~~

BRIDE/GROOM/SPOUSE (circle one)

NAME (First) (Middle) (Last)

SEX DATE OF BIRTH AGE

(e.g., July 1, 2009)

BIRTHPLACE EDUCATION (Circle No. Yrs.

Completed)

GRADES GRADES

COLLEGE

1-8 9-12 (1-

5+)

RESIDENCE (No. and Street)

CITY OR TOWN COUNTY STATE

RACE—White, Black, Native American, Indian, Chinese, Japanese, Hawaiian, Filipino

(Specify)

FATHER'S NAME (First, Middle, Last)

FATHER'S BIRTHPLACE (State MOTHER'S BIRTHPLACE (State

or Foreign Country or Foreign Country)

MOTHER'S MAIDEN NAME (First, Middle, Maiden Surname)

NO. OF THIS MARRIAGE NO. OF IF PREVIOUSLY IN

MARRIAGE (1st, CIVIL OR CIVIL UNION, LAST

2nd, etc.)

UNIONS RELATIONSHIP WAS

~~1. MARRIAGE 2. CIVIL~~

UNION

Date last marriage or civil union ended _____ Month _____ Year _____

LAST RELATIONSHIP ENDED BY:

~~1. DEATH 2. DISSOLUTION 3. ANNULMENT~~

~~4. PREVIOUS CIVIL UNION DID NOT END, MARRYING CIVIL UNION PARTNER~~

Does either party have a legal guardian _____ Yes _____ No

BRIDE/GROOM/SPOUSE (circle one)

NAME (First) (Middle) (Last)

SEX DATE OF BIRTH AGE

(e.g., July 1, 2009)

BIRTHPLACE
Yrs.

EDUCATION (Circle No.

Completed)

GRADES GRADES

COLLEGE

1-8 9-12 (1-5+)

RESIDENCE (No. and Street)

CITY OR TOWN COUNTY STATE

RACE — White, Black, Native American, Indian, Chinese, Japanese, Hawaiian, Filipino

(Specify)

FATHER'S NAME (First, Middle, Last)

FATHER'S BIRTHPLACE (State

MOTHER'S BIRTHPLACE

or Foreign Country
Country)

(State or Foreign
Country)

MOTHER'S MAIDEN NAME (First, Middle, Maiden Surname)

NO. OF THIS MARRIAGE NO. OF IF PREVIOUSLY IN MARRIAGE

MARRIAGE (1st, 2nd, CIVIL OR CIVIL UNION, LAST

etc.)

UNIONS RELATIONSHIP WAS

~~1. MARRIAGE 2. CIVIL~~

UNION

Date last marriage or civil union ended _____ Month _____ Year _____

LAST RELATIONSHIP ENDED BY:

~~1. DEATH 2. DISSOLUTION 3. ANNULMENT~~

~~4. PREVIOUS CIVIL UNION DID NOT END, MARRYING CIVIL UNION PARTNER~~

Does either party have a legal guardian _____ Yes _____ No _____

APPLICANTS

~~We hereby certify that the information provide is correct to the best of our knowledge and belief and that we are free to marry under the laws of Vermont.~~

SIGNATURE _____ SIGNATURE _____

Date _____ signed: _____ Date _____ signed: _____

Planned _____ marriage _____ date _____ Location _____ (City _____ or _____ town)

Officiant _____ Name _____ & _____ Address _____

Your _____ mailing _____ address _____ after wedding _____

Do you want a certified copy of your Marriage Certificate? (\$10.00)

_____ Yes _____ No _____

Date License issued _____ Clerk issuing License _____

This worksheet may be destroyed after the marriage is registered.

~~(3) At least one party to the proposed marriage shall sign the certifying application to the accuracy of the facts so stated. The license shall be issued by:~~

~~(A) the clerk of the incorporated town, city, or village where either party resides;~~

~~(B) the clerk of the county where an unorganized town or gore is situated, if both parties reside in an unorganized town or gore in that county, or if one party so resides and the other party resides in an unorganized town or~~

gore in another county or outside the State; or,

(C) if neither is a resident of the state, by any town clerk in the state State if neither party is a resident of the State.

(4)(A) Parties to a civil union certified in Vermont may elect to dissolve their civil union upon marrying one another but are not required to do so to form a civil marriage. The ~~department~~ State Registrar shall clearly indicate this option on the civil marriage application form required by subdivision (2) of this subsection. If a couple elects this option, each party to the intended marriage shall sign a statement on the confidential portion of the civil marriage license and certificate form stating that he or she freely and voluntarily agrees to dissolve the civil union between the parties.

* * *

(b) A civil marriage license so issued shall be signed by both parties to the marriage and delivered by one of the parties to the proposed marriage, within 60 days from the date of issue, to a person authorized to solemnize marriages by section 5144 of this title. If the proposed marriage is not solemnized within 60 days from the date of issue, such license shall become void. After such the person has solemnized the marriage, he or she shall fill out that part of the form on the license provided for his or her use, sign it, and certify to the same occurrence and date of the marriage. Thereafter the document shall be known as a civil marriage certificate.

* * *

Sec. 40. 18 V.S.A. § 5139 is amended to read:

§ 5139. CLERK'S DUTIES; PENALTY

(a) A Except under the circumstances described in subsection (b) of this section, a town clerk who knowingly issues a civil marriage license upon application of a person residing in another town in the state, or a county clerk who knowingly issues a civil marriage license upon application of a person other than as provided in section 5005 of this title other than as described in subdivision 5131(a)(3) of this title, or a clerk who issues such a license without first requiring the applicant to fill out, sign, and make oath to the declaration contained therein as provided in section 5131 of this title, shall be fined not more than \$50.00 nor less than \$20.00 subject to the penalties prescribed in section 5011 of this title.

(b) A town clerk may issue a civil marriage license to parties other than as described in subdivision 5131(a)(3) of this title when the office of the town clerk with authority to issue the license is not open during standard business hours and the parties have a compelling, immediate need to be married, as determined by the town clerk issuing the civil marriage license. A compelling,

immediate need would arise when irreparable harm would occur if the marriage were delayed.

Sec. 41. 18 V.S.A. § 5140 is amended to read:

§ 5140. PENALTY FOR MISREPRESENTATION

A person ~~making application who applies~~ to a clerk for a license to marry ~~who and knowingly~~ makes a material misrepresentation in ~~filling the forms contained in the declaration of intention~~ the application shall be deemed guilty of perjury and punished accordingly subject to the penalties prescribed in section 5011 of this title.

Sec. 42. 18 V.S.A. § 5141 is amended to read:

§ 5141. PROOF CONFIRMATION OF LEGAL QUALIFICATIONS OF PARTIES; PENALTY

(a) ~~Before~~ At a minimum, before issuing a civil marriage license to an applicant, the town clerk shall ~~satisfy himself by requiring affidavits or other proof that neither party to the intended marriage is~~ review the license application to confirm that:

(1) the information submitted therein does not facially indicate that the parties are prohibited from marrying by the laws of this state ~~State; and~~

(2) the parties have certified to the veracity of the information in the application.

(b) A clerk who fails to comply with the provisions of this section or who issues a civil marriage license with knowledge that the parties, or either of them, are prohibited from marrying or otherwise have failed to comply with the requirements of the laws of this state ~~State~~, or a person who having authority and having such knowledge solemnizes such a marriage, shall be ~~finned not more than \$100.00~~ subject to the penalties prescribed in section 5011 of this title.

(c) ~~The affidavits herein referred to shall be in a form prescribed by the board and shall be attached to and filed with the civil marriage certificate in the office of the clerk of the town wherein the license was issued. [Repealed.]~~

Sec. 43. 18 V.S.A. § 5142 is amended to read:

§ 5142. RESTRICTIONS AS TO PERSONS WHO ARE MINORS OR INCOMPETENT NOT AUTHORIZED TO MARRY

~~A Clerk~~ The following persons are not authorized to marry, and a town clerk shall not knowingly issue a civil marriage license, when either party to the intended marriage is:

(1) either party is a person who has not attained majority without, unless

~~the consent~~ town clerk has received in writing the consent of one of the parents of the minor, if there is ~~one~~ a parent competent to act, or of the guardian of ~~such~~ the minor;

(2) ~~nor with such consent when~~ either party is under 16 years of age;

(3) ~~nor when either of the parties to the intended marriage is not~~ is mentally ~~capable~~ incapable of entering into marriage as defined in 15 V.S.A. § 514;

(4) ~~nor to a person~~ either of the parties is under guardianship, without the written consent of ~~such~~ the party's guardian;

(5) [Repealed.]

(6) the parties are prohibited from marrying under 15 V.S.A. § 1a on account of consanguinity or affinity;

(7) either of the parties has a wife or husband living, as prohibited under 13 V.S.A. § 206 (bigamy).

Sec. 44. 18 V.S.A. § 5143 is amended to read:

§ 5143. PENALTIES

~~A clerk who knowingly violates a provision of section 5142 of this title shall be fined not more than \$20.00.~~ A person who aids in procuring such a civil marriage license by falsely pretending to be the parent or guardian having authority to give consent to the marriage of ~~such minors~~ a minor shall be ~~fined not more than \$500.00~~ subject to the penalties prescribed in section 5011 of this title.

Sec. 45. 18 V.S.A. § 5146 is amended to read:

§ 5146. PENALTY FOR SOLEMNIZATION WITHOUT LICENSE OR FAILURE TO RETURN

~~A person~~ An individual who solemnizes a marriage, without first obtaining of the parties the license as required by ~~law~~ section 5145 of this title, or who fails to properly fill out the form thereon provided for his or her use and return the license and certificate of civil marriage to the town clerk's office from which it was issued within 10 days from the date of the marriage, shall be ~~fined not less than \$10.00~~ subject to the penalties prescribed in section 5011 of this title.

Sec. 46. 18 V.S.A. § 5147 is amended to read:

§ 5147. SOLEMNIZATION BY UNAUTHORIZED PERSON; PENALTY; VALIDITY OF MARRIAGE

(a) ~~A person~~ An individual who, knowing that he or she is not authorized

so to do, undertakes to join others in marriage, shall be imprisoned not more than six months or fined not more than \$300.00 nor less than \$100.00, or both subject to the penalties prescribed in section 5011 of this title.

(b) A marriage solemnized before a person professing to be a justice or a minister of the gospel by an individual who was not authorized to do so under this chapter shall not be void nor the validity thereof affected for want of jurisdiction or authority in such supposed justice or minister or invalid, providing provided that the marriage is in other respects lawful and is consummated with a belief on the part of the persons either party so married, or either of them, that they the couple were lawfully joined in marriage.

* * * Reports of Death, Death Certificates * * *

Sec. 47. 18 V.S.A. § 5202 is amended to read:

§ 5202. REPORT OF DEATH; DEATH CERTIFICATE; DUTIES OF PHYSICIAN AND AUTHORIZED LICENSED HEALTH CARE PROFESSIONAL

(a)(1) The Within 24 hours after a death, the licensed health care professional who is last in attendance upon last attended a deceased person shall immediately fill out a certificate of death on a form prescribed by the commissioner submit the medical portion of a report of death in a manner prescribed by the State Registrar. For the purposes of this section, a licensed health care professional means a physician, a physician assistant, or an advance practice registered nurse. If the licensed health care professional who attended the death is unable to state the cause of death, he or she shall immediately notify the physician licensed health care professional, if any, who was in charge of the patient's care to fill out the certificate, and he or she shall fulfill this requirement.

(2) If the physician neither health care professional is unable able to state the cause of death, the provisions of section 5205 of this title apply.

(3) The licensed health care professional may, with the consent of the funeral director, delegate to the funeral director or the person in charge of the body, with that individual's consent, the responsibility of gathering data for and filling out all items except the medical certification of cause of death completing the nonmedical portion of the report of death.

(4) All entries, except signatures, on the certificate shall be typed or printed and shall contain answers to the following questions:

(1) Was the deceased The State Registrar shall furnish the agency responsible for veterans' affairs information as to the deceased's status as a veteran of any war?

~~(2) If so, of what war?.~~

(5) The State Registrar shall register the report of death in the Statewide Registration System upon receipt of the required information. The portion of the report of death that is not confidential under section 5014 of this title is the death certificate.

~~(b) When death occurs in a hospital and it is impossible to obtain a death certificate from an attending licensed health care professional before is not available prior to burial or transportation of a body, any licensed health care professional who has access to the facts and can certify that the death is not subject to the provisions of section 5205 of this title may complete and sign a preliminary report of death on a form supplied by the commissioner prescribed by the State Registrar. The municipal or county clerk or a deputy shall The health care professional may delegate completion of the nonmedical facts to any funeral director or person in charge of the body with access to the nonmedical facts, with that individual's consent. A person authorized to issue a burial-transit permit shall accept this report and a properly completed preliminary report and issue a burial-transit permit. This The preliminary report of death may be destroyed six months after a the death certificate has been filed registered. This does not subsection does not relieve the attending a licensed health care professional from the responsibility of completing a death certificate and delivering it to the funeral director within 24 hours after death his or her responsibilities under subsection (a) of this section.~~

Sec. 48. 18 V.S.A. § 5203 is amended to read:

~~§ 5203. DEATH CERTIFICATE; MEMBER OF ARMED FORCES~~

~~Upon official notification of a death of a member of the armed forces of the United States while serving as such beyond the United States, not including the territories thereof, and provided the remains of the member are not returned to this country, the next of kin thereof or interested person may file with the clerk of the town of the residence of such member a certificate of death. Such certificate shall set forth the name, date of birth, and date of death, if the same can be determined, the names of the parents of the deceased and such other information as may be deemed pertinent by the office of the adjutant general. [Repealed.]~~

Sec. 49. 18 V.S.A. § 5204 is amended to read:

~~§ 5204. FORMS; CERTIFICATION~~

~~The certificate shall be made on forms furnished by the commissioner and shall be recorded by the town clerk in accordance with the provisions of this chapter. The town clerk shall forthwith, upon making such record, forward a certified copy thereof to the office of the adjutant general. [Repealed.]~~

Sec. 50. 18 V.S.A. § 5205 is amended to read:

§ 5205. DEATH CERTIFICATE WHEN NO ATTENDING PHYSICIAN AND IN OTHER CIRCUMSTANCES; AUTOPSY

* * *

(f) The State's Attorney or Chief Medical Examiner, if either deem it necessary and in the interest of public health, welfare, and safety, or in furtherance of the administration of the law, may order an autopsy to be performed by the Chief Medical Examiner or under his or her direction. Upon completion of the autopsy, the Chief Medical Examiner shall submit a report to such State's Attorney and the Attorney General and shall ~~complete and sign a certificate~~ submit a report of death to the State Registrar.

* * *

Sec. 51. 18 V.S.A. § 5206 is amended to read:

§ 5206. PENALTY FOR FAILURE TO FURNISH DEATH CERTIFICATE SUBMIT REPORT OF DEATH

~~A physician who fails to furnish a certificate of death~~ licensed health care professional who fails to cause the medical portion of a report of death to be submitted within 24 hours after the death of a person containing a true statement of the cause of such death, ~~and all the other facts provided for in the form of death certificates,~~ so far as these facts are obtainable, ~~shall be fined not more than \$100.00 shall be subject to the penalties prescribed in section 5011 of this title.~~

Sec. 52. 18 V.S.A. § 5202a is amended to read:

§ 5202a. CORRECTION, COMPLETION, OR AMENDMENT OF DEATH CERTIFICATE

(a) Corrections, completions. Within six months after the date of death, the ~~town clerk~~ State Registrar may correct or complete a death certificate upon application by the certifying ~~physician~~ licensed health care professional, medical examiner, hospital, nursing home, or funeral director, if the application and relevant evidence, if any, show that the correction or completion is warranted. ~~The town clerk may correct or complete the certificate accordingly and shall certify thereon that such correction or completion was made pursuant to this section, with the date thereof. In his or her discretion, the town clerk may refuse an application for correction or completion, in which case, the applicant may petition the probate division of the superior court for such correction or completion.~~

(b)(1) Amendments. After six months from the date of death, any alteration of a death certificate may only be corrected or amended pursuant to

~~decree of the probate division of the superior court in which district the original certificate is filed shall be deemed an amendment. Upon application by a person specified in subsection (a) of this section, the State Registrar may amend the death certificate if the application and relevant evidence, if any, show that the amendment is warranted.~~

~~(2) The probate division of the superior court to which such application is made shall set a time for hearing thereon and, if such court deems necessary, cause notice of the time and place thereof to be given by posting the same in the probate division of the superior court office and, after hearing, shall make such findings, with respect to the correction of such death certificate as are supported by the evidence. The court shall thereupon issue a decree setting forth the facts as found, and transmit a certified copy of such decree to the supervisor of vital records registration. The supervisor of vital records registration~~

~~(c) Appeal. If the State Registrar denies an application for a correction, completion, or amendment under this section, the applicant may petition the Probate Division of the Superior Court, which shall review the application and relevant evidence de novo to determine if the requested action is warranted. The court shall transmit a decree ordering a correction, completion, or amendment to the State Registrar, who shall take action in accordance with the decree.~~

~~(d) Documentation of changes. The State Registrar shall make corrections, completions, and amendments in the Statewide Registration System. A corrected or completed certificate issued from the System shall be free of any evidence of the alteration and shall not be marked "Amended." Any amended death certificate issued from the System shall indicate the word "Amended" and the date of amendment. The State Registrar shall enter into and maintain in the System the identity of the person requesting the correction, completion, or amendment, the nature and content of the change, the identity of the person making the change in the System, and the date the change was made.~~

~~(e) Original certificates. If the State Registrar corrects, completes, or amends a certificate that was registered prior to July 1, 2018, he or she shall transmit the same to the appropriate town clerk to amend notify the town clerk or clerks with custody of the original or issue a new certificate, who shall replace and dispose of the original, and update indexes, as directed by the State Registrar. The words "Court Amended" shall be typed, written, or stamped at the top of the new or amended certificates with the date of the decree and the name of the issuing court.~~

~~(e)(f) Provided, however, that only the medical examiner or the certifying physician may apply to Cause of death. The State Registrar shall only correct~~

~~or, complete the certificate as to, or amend~~ the medical certification of the cause of death upon application by the medical examiner or certifying licensed health care professional.

Sec. 53. 18 V.S.A. § 5207 is amended to read:

§ 5207. CERTIFICATE FURNISHED FAMILY; ~~BURIAL~~ BURIAL-
TRANSIT PERMIT

~~The physician or person filling out the certificate of death, within 36~~ Within 24 hours after death, ~~shall deliver the same~~ the death certificate shall be made available upon request to the family of the deceased, if any, or the undertaker or person who has charge of the body. ~~Such~~ The certificate shall be filed with the person issuing the ~~certificate of permission for burial, entombment, or removal~~ burial-transit permit obtained by the person who has charge of the body before such dead body shall be buried, entombed, or removed from the town. When ~~such~~ the death certificate ~~of death~~ is so filed, ~~such~~ the officer or person shall immediately issue a ~~certificate of permission for burial, entombment, or removal of the dead body~~ burial-transit permit under legal restrictions and safeguards.

Sec. 54. 18 V.S.A. § 5211 is amended to read:

§ 5211. UNAUTHORIZED BURIAL OR REMOVAL; PENALTY

A person who buries, entombs, transports, or removes the dead body of a person without a burial-transit ~~or removal~~ permit so to do, or in any other manner or at any other time or place than as specified in such permit, shall be ~~imprisoned not more than five years or fined not more than \$1,000.00, or both~~ subject to the penalties prescribed in section 5011 of this title.

Sec. 55. 18 V.S.A. § 5216 is amended to read:

§ 5216. PENALTY

A sexton or other person having charge of a cemetery, tomb, or receiving vault who violates a provision of sections 5214 and 5215 of this title shall be ~~fined not more than \$500.00 nor less than \$20.00~~ subject to the penalties prescribed in section 5011 of this title.

* * * Conforming Changes * * *

Sec. 56. 4 V.S.A. § 311a is amended to read:

§ 311a. VENUE GENERALLY

For proceedings authorized to the Probate Division of Superior Court, venue shall lie as provided in Title 14A for the administration of trusts, and otherwise in a Probate District as follows:

* * *

~~(19) Issuance of Appeal from a denial by the State Registrar of Vital Records of a request for a new or, corrected, amended, or delayed birth certificate: in the district where the birth occurred or allegedly occurred.~~

~~(20) Correction or amendment of a civil marriage or civil union certificate or issuance of delayed certificate: in the district where the original certificate is filed marriage or civil union license was issued or allegedly issued.~~

~~(21) Correction or amendment of a Appeal from a denial by the State Registrar of Vital Records of a request for a corrected or amended death certificate: in the district where the original certificate is filed death occurred or, if the place of death is unknown, where the body was found.~~

* * *

~~(27) Issuance of certificates of public good authorizing the civil marriage of persons under 16 years of age: in the district or unit where either applicant resides, if either is a resident of the State; otherwise in the district or unit in which the civil marriage is sought to be consummated. [Repealed.]~~

* * *

Sec. 57. 15 V.S.A. § 816 is amended to read:

§ 816. ~~CERTIFICATE OF CHANGE; CORRECTION~~ AMENDMENT OF BIRTH AND CIVIL MARRIAGE RECORDS CERTIFICATE

~~Whenever a person changes his or her name, as provided in this chapter, he or she, shall~~ A person, or the parent or guardian of a minor, may provide the probate division of the superior court State Registrar of Vital Records with a copy of his or her birth certificate and, if married, a copy of his or her civil marriage certificate, and a copy of the birth certificate of each minor child, if any. The register of probate with whom the change of name is filed and recorded shall transmit the certificate and a certified copy of such instrument of change of name to the supervisor of vital records registration. The supervisor of vital records registration or the birth certificate of the minor and a certified copy of a decree issued under this chapter authorizing a change of name, and request that the birth certificate be amended in accordance with the decree. The State Registrar of Vital Records shall forward such instrument of change of name to the town clerk in the town where the person was born within the state, or wherein the original certificate is filed, with instructions to amend the original certificate and all copies thereof update the Statewide Registration System and proceed in accordance with the provisions of chapter 101 of Title 18 V.S.A. § 5075. Such amended Notwithstanding 18 V.S.A. § 5075, certificates amended pursuant to this section shall have the words

“Court Amended” stamped, written, or typed at the top and shall show that the change of name was made pursuant to this chapter.

Sec. 58. REPLACEMENTS

(a) In 15A V.S.A. §§ 3-705 and 5-108(c), the phrase “supervisor of vital records” is replaced with “State Registrar of Vital Records”, and in 15A V.S.A. § 5-108(c), the word “supervisor” is replaced with “State Registrar.”

(b) In 18 V.S.A. § 1103, the phrase “certificate of birth” is replaced with “report of birth.”

(c) In 18 V.S.A. § 5148, “commissioner of health” is replaced with “State Registrar.”

(d) In 18 V.S.A. §§ 5150(c) and 5168(c), the phrase “supervisor of vital records registration” is replaced by “State Registrar” wherever it appears.

(e) In 18 V.S.A. §§ 5151 and 5159, the phrase “supervisor of vital records registration” and the phrase “department of health” are replaced by “State Registrar” wherever they appear.

Sec. 59. 15A V.S.A. § 1-101 is amended to read:

§ 1-101. DEFINITIONS

As used in this title:

* * *

(22) “State Registrar” and “State Registrar of Vital Records” mean the supervisor of the Office of Vital Records in the Department of Health.

(23) “Stepparent” means a person who is the spouse or surviving spouse of a parent of a child but who is not a parent of the child.

~~(23) “Supervisor of vital records” means the supervisor of vital records registration of the Department of Health.~~

Sec. 60. 24 V.S.A. § 1164 is amended to read:

§ 1164. CERTIFIED COPIES; FORM

(a) A town clerk shall furnish certified copies of any instrument on record in his or her office, or any instrument or paper filed in his or her office pursuant to law, on the tender of ~~his or her~~ fees therefor, and his or her attestation shall be a sufficient authentication of the copies, except that the town clerk shall ~~not copy~~ redact the word “illegitimate” from any copy of a birth certificate he or she furnishes.

~~(b) Copies of vital records for events occurring outside the State, filed with a town clerk pursuant to 18 V.S.A. § 5015, shall not be copied and certified.~~

A town clerk shall furnish a certified copy of a vital event certificate only if authorized and as prescribed under 18 V.S.A. chapter 101.

Sec. 61. 32 V.S.A. § 1712 is amended to read:

§ 1712. TOWN CLERKS

Town clerks shall receive the following fees ~~in the matter of vital registration for issuing marriage licenses and vital event certificates:~~

(1) For issuing and recording a civil marriage ~~or civil union~~ license, \$60.00 to be paid by the applicant, \$10.00 of which sum shall be retained by the town clerk as a fee, \$35.00 of which shall be deposited in the Domestic and Sexual Violence Special Fund created by 13 V.S.A. § 5360, and \$15.00 of which sum shall be paid by the town clerk to the State Treasurer in a return filed quarterly upon forms furnished by the State Treasurer and specifying all fees received by him or her during the quarter. Such quarterly period shall be as of the first day of January, April, July, and October.

(2) ~~\$1.00 for other copies made under the provisions of 18 V.S.A. § 5009 to be paid by the town. [Repealed.]~~

(3) ~~\$2.00 for each birth certificate completed or corrected under the provisions of 15 V.S.A. §§ 449 and 816 and 18 V.S.A. §§ 5073, 5075-5078, for the correction of each civil marriage certificate under the provisions of 15 V.S.A. § 816, and 18 V.S.A. § 5150, for the correction or completion of each civil union certificate under the provisions of 18 V.S.A. § 5168, and for each death certificate corrected under the provisions of 18 V.S.A. § 5202a, to be paid by the town. [Repealed.]~~

(4) ~~\$1.00 for each certificate of facts relating to births, deaths, civil unions, and marriages, transmitted to the Commissioner of Health in accordance with the provisions of 18 V.S.A. § 5010. Such sum, together with the cost of binding the certificate shall be paid by the town. [Repealed.]~~

(5) Fees for vital records event certificates shall be equivalent to those received by the Commissioner of Health or the Vermont State Archivist pursuant to subsection 1715(a) of this title charged and allocated as specified in 18 V.S.A. § 5017.

Sec. 62. 32 V.S.A. § 1715 is amended to read:

§ 1715. VITAL RECORDS EVENT CERTIFICATES; COPIES; SEARCH

(a) Upon payment of a ~~\$10.00~~ the fee established under 18 V.S.A. § 5017, the ~~Commissioner of Health~~ Office of Vital Records or the Vermont State Archives and Records Administration shall provide a certified copies ~~copy~~ of a vital records event certificate, or shall ascertain and certify what the vital records available to the Commissioner and the Vermont State Archivist show

event certificate shows, except that the Commissioner and the Vermont State Archivist shall not copy the word “illegitimate” shall be redacted from any birth certificate furnished. The fee for the search of the vital records is \$3.00 which is credited toward the fee for the first certified copy based upon the search.

(b) Fees collected under this section shall be credited to special funds established and managed pursuant to chapter 7, subchapter 5 of chapter 7 of this title, and shall be available to the charging departments to offset the costs of providing those services.

* * * Effective Dates * * *

Sec. 63. EFFECTIVE DATES

(a) This section; in Sec. 3, 18 V.S.A. § 5000(e)(8) and (f) (rulemaking authority); and in Sec. 39, 18 V.S.A. § 5131(a)(2) (marriage license application form) shall take effect on passage.

(b) All other sections of this act shall take effect on July 1, 2018.

(Committee Vote: 10-0-1)

H. 196

An act relating to paid family leave

Rep. Stevens of Waterbury, for the Committee on General; Housing and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

(1) “Employer” means an individual, organization or governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within this State ~~which for the purposes of parental leave, employs 10 or more individuals who are employed for an average of at least 30 hours per week during a year and for the purposes of family leave, employs 15 or more individuals for an average of at least 30 hours per week during a year.~~

(2) “Employee” means a person who, in consideration of direct or indirect gain or profit, ~~has been continuously employed by the same employer for a period of one year for an average of at least 30 hours per week is~~

employed by an employer and has been employed in Vermont for at least six of the previous 12 months.

(3) “Family leave” means a leave of absence from employment by an employee ~~who works for an employer which employs 15 or more individuals who are employed for an average of at least 30 hours per week during the year~~ for one of the following reasons:

(A) the serious illness of the employee; ~~or~~

(B) the serious illness of the employee’s child, stepchild or ward who lives with the employee, foster child, parent, grandparent, sibling, spouse, or parent of the employee’s spouse;

~~(4) “Parental leave” means a leave of absence from employment by an employee who works for an employer which employs 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:~~

~~(C) the employee’s pregnancy;~~

~~(D) the birth of the employee’s child; or~~

~~(B)(E) the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption or foster care.~~

~~(5)(4) “Serious illness” means an accident, disease, or physical or mental condition that:~~

~~(A) poses imminent danger of death;~~

~~(B) requires inpatient care in a hospital; or~~

~~(C) requires continuing in-home care under the direction of a physician.~~

(5) “Commissioner” means the Commissioner of Labor.

(6) “Worker” means a person who, in consideration of direct or indirect gain or profit, performs services for an employer, where the employer is unable to show that:

(A) the person has been and will continue to be free from control or direction over the performance of the services, both under the contract of service and in fact;

(B) the service is either outside the usual course of business for the employer for whom the service is performed, or outside all the places of business of the employer for whom the service is performed; and

(C) the person is customarily engaged in an independently established trade, occupation, profession, or business.

Sec. 2. 21 V.S.A. § 472 is amended to read:

§ 472. FAMILY LEAVE

(a) During any 12-month period, an employee shall be entitled to take ~~unpaid leave for a period not to exceed 12 weeks~~ up to 12 weeks of paid family leave using Family Leave Insurance benefits pursuant to section 472c of this subchapter for the following reasons:

(1) ~~for parental leave, during the employee's pregnancy and;~~

(2) ~~following the birth of an~~ the employee's child ~~or;~~

(3) ~~within a year following the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption; or foster care;~~

(2)(4) ~~for family leave, for the serious illness of the employee; or~~

(5) the serious illness of the employee's child, stepchild or ward of the employee who lives with the employee, foster child, parent, grandparent, sibling, spouse, or parent of the employee's spouse.

(b) During the leave, at the employee's option, the employee may use accrued sick leave or vacation leave or any other accrued paid leave, ~~not to exceed six weeks.~~ Utilization Use of accrued paid leave shall not extend the leave provided ~~herein~~ by this section.

(c) The employer shall continue employment benefits for the duration of the family leave at the level and under the conditions coverage would be provided if the employee continued in employment continuously for the duration of the leave. The employer may require that the employee contribute to the cost of the benefits during the leave at the employee's existing rate of ~~employee~~ contribution.

(d) The employer shall post and maintain in a conspicuous place in and about each of ~~his or her~~ its places of business printed notices of the provisions of this subchapter on forms provided by the Commissioner of Labor.

(e)(1) An employee shall give his or her employer reasonable written notice of intent to take family leave under this subchapter. Notice shall include the date the leave is expected to commence and the estimated duration of the leave.

(2) In the case of the adoption or birth of a child, an employer shall not require that notice be given more than six weeks prior to the anticipated commencement of the leave.

(3) In the case of an unanticipated serious illness or premature birth, the employee shall give the employer notice of the commencement of the leave as soon as practicable.

(4) In the case of serious illness of the employee or a member of the employee's family, an employer may require certification from a physician to verify the condition and the amount and necessity for the leave requested.

(5) An employee may return from leave earlier than estimated upon approval of the employer.

(6) An employee shall provide reasonable notice to the employer of his or her need to extend the leave to the extent provided by this chapter.

~~(f) Upon return from leave taken under this subchapter, an employee shall be offered~~ An employer shall offer an employee who has been employed by the employer for at least 12 months and is returning from family leave taken under this subchapter the same or a comparable job at the same level of compensation, employment benefits, seniority, or any other term or condition of the employment existing on the day the family leave began. This subchapter shall not apply if, prior to requesting leave, the employee had been given notice or had given notice that the employment would terminate. This subsection shall not apply if the employer can demonstrate by clear and convincing evidence that:

(1) during the period of leave, the employee's job would have been terminated or the employee laid off for reasons unrelated to the leave or the condition for which the leave was granted; or

(2) the employee performed unique services and hiring a permanent replacement during the leave, after giving reasonable notice to the employee of intent to do so, was the only alternative available to the employer to prevent substantial and grievous economic injury to the employer's operation.

(g) An employer may adopt a leave policy more generous than the leave ~~policy~~ provided by this subchapter. Nothing in this subchapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or any employment benefit program or plan which provides greater leave rights than the rights provided by this subchapter. A collective bargaining agreement or employment benefit program or plan may not diminish rights provided by this subchapter. Notwithstanding the provisions of this subchapter, an employee may, at the time a need for ~~parental~~ or family leave arises, waive some or all the rights under this subchapter provided the waiver is informed and voluntary and any changes in conditions of employment related to any waiver shall be mutually agreed upon between employer and employee.

(h) Except for serious illness of the employee, an employee who does not return to employment with the employer who provided the family leave shall return to the employer the value of any compensation paid to or on behalf of

the employee during the leave, except payments of Family Leave Insurance benefits and payments for accrued sick leave or vacation leave. An employer may elect to waive the rights provided pursuant to this subsection.

Sec. 3. 21 V.S.A. § 472c is added to read:

§ 472c. FAMILYLEAVE INSURANCE; SPECIAL FUND;

ADMINISTRATION

(a) The Family Leave Insurance Program is established in the Department of Labor for the provision of Family Leave Insurance benefits to eligible employees pursuant to this section.

(b) The Family Leave Insurance Special Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund may be expended by the Commissioner for the administration of the Family Leave Insurance Program and payment of Family Leave Insurance benefits provided pursuant to this section.

(c)(1)(A) The Fund shall consist of contributions equal to 0.93 percent of each worker's wages, which an employer shall deduct and withhold from each of its workers' wages.

(B) An employer may elect to pay all or a portion of the contributions due from its workers' wages.

(2)(A) Notwithstanding subdivision (1) of this subsection, the General Assembly shall annually establish the rate of contribution for the next fiscal year. The rate shall equal the amount necessary to provide Family Leave Insurance benefits pursuant to subsection (f) of this section and to administer the Family Leave Insurance Program during the next fiscal year, adjusted by any balance in the fund from the prior fiscal year.

(B)(i) On or before February 1 of each year, the Commissioner shall report to the General Assembly the rate of contribution necessary to provide Family Leave Insurance benefits pursuant to subsection (f) of this section and to administer the Program during the next fiscal year, adjusted by any balance in the fund from the prior fiscal year.

(ii) The proposed rate of contribution determined by the Commissioner shall not exceed one percent of each worker's wages. If that amount is insufficient to fund Family Leave Insurance benefits at the rate set forth in subsection (f) of this section, the Commissioner's report shall include a recommendation of the amount by which to reduce Family Leave Insurance benefits in order to maintain the solvency of the Fund without increasing the proposed rate of contribution above one percent.

(d) An employer shall submit these contributions to the Commissioner in a

form and at times determined by the Commissioner.

(e) An employee shall file an application for Family Leave Insurance benefits with the Commissioner under this section on a form provided by the Commissioner. The Commissioner shall determine eligibility of the employee based on the following criteria:

(1) The purposes for which the claim is made are documented.

(2) The employee satisfies the eligibility requirements for the requested leave.

(f)(1) Except as otherwise provided pursuant to subsection (c) of this section, an employee awarded Family Leave Insurance benefits under this section shall receive the employee's average weekly wage or an amount equal to a 40-hour workweek paid at a rate double that of the livable wage, as determined by the Joint Fiscal Office pursuant to 2 V.S.A. § 505, whichever is less.

(2) An employee shall be entitled to no more than 12 weeks of Family Leave Insurance benefits in a 12-month period.

(g) The Commissioner of Labor shall make a determination of each claim no later than five days after the date the claim is filed, and Family Leave Insurance benefits shall be paid from the Fund created pursuant to this section. An employee or employer aggrieved by a decision of the Commissioner under this subsection may file with the Commissioner a request for reconsideration within 30 days after receipt of the Commissioner's decision. Thereafter, an applicant denied reconsideration may file an appeal to the Civil Division of the Superior Court in the county where the employment is located.

(h)(1) A self-employed person, including a sole proprietor or partner owner of an unincorporated business, may elect to obtain coverage under the Family Leave Insurance Program pursuant to this section for a period of three years by filing a notice of his or her election with the Commissioner on a form provided by the Commissioner.

(2) A person who elects coverage pursuant to this subsection may file a claim for and receive Family Leave Insurance benefits pursuant to this section after making six months of contributions to the Fund.

(3) A person who elects to obtain coverage pursuant to this subsection shall:

(A) contribute a portion of his or her work income equal to the amount established pursuant to subsection (c) of this section at times determined by the Commissioner; and

(B) provide to the Commissioner any documentation of his or her

income or related information that the Commissioner determines is necessary.

(4)(A) A person who elects coverage pursuant to this subsection may terminate that coverage at the end of the three-year period by providing the Commissioner with written notice of the termination at least 30 days before the end of the period.

(B) If a person who elects coverage pursuant to this subsection does not terminate it at the end of the initial three-year period, he or she may terminate the coverage at the end of any succeeding annual period by providing the Commissioner with written notice of the termination at least 30 days before the end of the period.

(C) Notwithstanding subdivisions (A) and (B) of this subdivision (h)(4), a person who, after electing to obtain coverage pursuant to this subsection, becomes a worker or stops working in Vermont, may elect to terminate the coverage pursuant to this subsection by providing the Commissioner with 30 days' written notice in accordance with rules adopted by the Commissioner.

(D) Nothing in this subsection shall be construed to prevent an individual who is both a worker and self-employed from electing to obtain coverage pursuant to this subsection.

(i) A person who willfully makes a false statement or representation for the purpose of obtaining any benefit or payment or to avoid payment of any required contributions under the provisions of this section, either for himself or herself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00 and shall forfeit all or a portion of any right to compensation under the provisions of this section, as determined to be appropriate by the Commissioner after a determination by the Commissioner that the person has willfully made a false statement or representation of a material fact.

(j)(1) An individual filing a claim for benefits pursuant to this section shall, at the time of filing, be advised that:

(A) Family Leave Insurance benefits may be subject to income tax;

(B) requirements exist pertaining to estimated tax payments;

(C) the individual may elect to have income tax deducted and withheld from the individual's benefits payment; and

(D) the individual may change a previously elected withholding status.

(2) Amounts deducted and withheld from Family Leave Insurance benefits shall remain in the Family Leave Insurance Special Fund until

transferred to the appropriate taxing authority as a payment of income tax.

(3) The Commissioner shall follow all procedures specified by the federal Internal Revenue Service pertaining to the deducting and withholding of income tax.

(k) The Commissioner may adopt rules as necessary to implement this section.

Sec. 4. RULEMAKING

On or before January 1, 2018, the Commissioner of Labor shall adopt rules necessary to implement the Paid Family Leave Program, including rules governing the process by which a person who has elected to obtain coverage under the Family Leave Insurance Program pursuant to 21 V.S.A. § 472c(h) and subsequently becomes a worker or stops working in Vermont may terminate that coverage.

Sec. 5. EDUCATION AND OUTREACH

On or before January 1, 2018, the Commissioner of Labor shall develop and make available on the Department of Labor's website information and materials to educate and inform employers and employees about the Family Leave Insurance Program established pursuant to 21 V.S.A. § 472c.

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 3, 4, and 5 shall take effect on July 1, 2017.

(b) In Sec. 1, 21 V.S.A. 471, subdivision (6) shall take effect on July 1, 2017. The remaining provisions of Sec. 1 shall take effect on July 1, 2019.

(c) Sec. 2 shall take effect on July 1, 2019.

(d) Contributions from employers and employees shall begin being paid pursuant to 21 V.S.A. § 472c(c) and (d) on July 1, 2018, and, beginning on July 1, 2019, employees and self-employed persons may begin to receive benefits pursuant to 21 V.S.A. § 472c.

(Committee Vote: 7-4-0)

H. 230

An act relating to consent by minors for mental health treatment related to sexual orientation and gender identity

Rep. Donahue of Northfield, for the Committee on Health Care, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 196 is amended to read:

CHAPTER 196. CONVERSION THERAPY OUTPATIENT MENTAL
HEALTH TREATMENT FOR MINORS

Subchapter 1. Consent by Minors for Mental Health Care

§ 8350. CONSENT BY MINORS FOR MENTAL HEALTH TREATMENT
RELATED TO SEXUAL ORIENTATION OR GENDER
IDENTITY

A minor may give consent to receive outpatient treatment from a mental health professional, as defined in section 7101 of this title, for any underlying condition related to the minor's sexual orientation or gender identity. Consent under this section shall not be subject to disaffirmance due to minority of the person consenting. The consent of a parent or legal guardian shall not be necessary to authorize outpatient treatment related to a consenting minor's sexual orientation or gender identity. As used in this section, "outpatient treatment," means psychotherapy and supportive counseling, but not prescription drugs.

Subchapter 2. Prohibition of Conversion Therapy

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(Committee Vote: 9-2-0)

H. 308

An act relating to a committee to reorganize and reclassify Vermont's criminal statutes

Rep. LaLonde of South Burlington, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. CRIMINAL CODE RECLASSIFICATION IMPLEMENTATION
COMMITTEE

(a) Creation. There is created the Criminal Code Reclassification Committee to develop and propose a classification system for purposes of structuring Vermont's criminal offenses.

(b) Membership. The Committee shall be composed of the following six members:

(1) three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House; and

(2) three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees;

(c) Powers and duties.

(1) The Committee shall develop a classification system that creates categories of criminal offenses on the basis of the maximum potential period of imprisonment and the maximum potential fine. The Committee shall propose legislation that places each of Vermont's criminal statutes into one of the classification offense categories it identifies. If the Committee is unable to determine an appropriate classification for a particular offense, the Committee shall indicate multiple classification possibilities for that offense.

(2) For purposes of the classification system developed pursuant to this section, the Committee shall consider the recommendations of the Criminal Code Reclassification Study Committee, and may consider whether to propose:

(A) rules of statutory interpretation specifically for criminal provisions;

(B) the consistent use of mental element terminology in all criminal provisions;

(C) a comprehensive section of definitions applicable to all criminal provisions.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office, and may consult with the Vermont Center for Justice Research, the Vermont Law School Center for Justice Reform, and any other person who would be of assistance to the Committee.

(e) Report. On or before December 31, 2017, the Committee shall submit a report consisting of proposed legislation to the House and Senate Committees on Judiciary.

(f) Meetings.

(1) The Committee shall select a chair and a vice chair from among its members at the first meeting.

(2) A majority of the membership shall constitute a quorum.

(3) The Committee shall cease to exist on January 15, 2018.

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 8-0-3)

H. 312

An act relating to retirement and pensions

Rep. Devereux of Mount Holly, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. VERMONT MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM RATES FOR FISCAL YEAR 2018

Notwithstanding the provisions of 24 V.S.A. § 5064(b), for the period July 1, 2017 through June 30, 2018, contributions shall be made by:

(1) Group A members at the rate of 2.5 percent of earnable compensation;

(2) Group B members at the rate of 4.875 percent of earnable compensation;

(3) Group C members at the rate of 10 percent of earnable compensation; and

(4) Group D members at the rate of 11.350 percent of earnable compensation.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(Committee Vote: 10-0-1)

Rep. Browning of Arlington, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations.

(Committee Vote: 8-0-3)

H. 326

An act relating to eligibility and calculation of grant or subsidy amount for Reach Up, Reach Ahead, and the Child Care Services Program

Rep. Keefe of Manchester, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Findings * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) benefit cliffs, which occur when a family’s loss of economic benefits outpaces the rate at which its earnings increase, have a detrimental impact on Vermont families;

(2) according to the 2016 article “Do Limits on Family Assets Affect Participation in, Costs of TANF?” by the Pew Charitable Trusts, raising or eliminating asset limits within the Temporary Assistance for Needy Families program (TANF) does not affect the number of monthly applicants to the program;

(3) according to the 2016 article “Low TANF Asset Limits Show No Cost or Caseload Benefits for State Programs” by the Pew Charitable Trusts, states experience a decrease in administrative costs when they raise or eliminate TANF asset tests;

(4) according to a 2014 article entitled “Relationships Between College Savings and Enrollment, Graduation, and Student Loan Debt,” by the Center for Social Development, children in families that have few or no assets have lower academic achievement scores, high school graduation rates, college enrollment rates, and college graduation rates than children in families with assets; and

(5) school-designated savings are more effective than basic savings in influencing college outcomes.

* * * Reach Up * * *

Sec. 2. 33 V.S.A. § 1103 is amended to read:

§ 1103. ELIGIBILITY AND BENEFIT LEVELS

* * *

(c) The Commissioner shall adopt rules for the determination of eligibility for the Reach Up program and benefit levels for all participating families that include the following provisions:

* * *

(5)(A) The value of assets accumulated from the earnings of adults and children in participating families and from any federal or Vermont earned income tax credit shall be excluded for purposes of determining continuing eligibility for the Reach Up program. The asset limitation shall be \$2,000.00 \$9,000.00 for participating families for the purposes of determining initial and continuing eligibility for the Reach Up program, and the following savings accounts shall not be considered in the calculation for determining the asset limitation:

(i) a retirement account, such an individual retirement

arrangement (IRA), a defined contribution plan qualified under 26 U.S.C. § 401(k), or any similar account as defined in 26 U.S.C. § 408; and

(ii) a qualified child education savings account, such as the Vermont Higher Education Investment Plan, established in 16 V.S.A. § 2877, or any similar plan qualified under 26 U.S.C. § 529.

(B) The value of assets accumulated from the earnings of adults and children in participating families and from any federal or Vermont earned income tax credit shall be excluded for purposes of determining continuing eligibility for the Reach Up program.

* * *

* * * Child Care Financial Assistance Program * * *

Sec. 3. 33 V.S.A. § 3512 is amended to read:

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;
ELIGIBILITY

(a)(1) A The Child Care Services Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking employment shall not be entitled to participate in the Program for a period in excess of one month, unless that period is extended by the Commissioner.

(2) The subsidy authorized by this subsection shall be on a sliding scale basis. The scale shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and family size. The lower limit of the fee scale shall include families whose gross income is up to and including 100 percent of the federal poverty guidelines. The upper income limit of the fee scale shall be neither less than 200 percent of the federal poverty guidelines nor more than 100 percent of the State median income, adjusted for the size of the family. The scale shall be structured so that it encourages employment.

(3) Earnings deposited in a qualified child education savings account, such as the Vermont Higher Education Investment Plan, established in 16 V.S.A. § 2877, or any similar plan qualified under 26 U.S.C. § 529, shall be disregarded in determining the amount of a family's income for the purpose of determining continuing eligibility.

* * *

* * * Effective Date * * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

and that after passage the title of the bill be amended to read: “An act relating to encouraging savings by participants in Reach Up and the Child Care Financial Assistance Program”

(**Committee Vote: 10-0-1**)

H. 411

An act relating to Vermont’s energy efficiency standards for appliances and equipment

Rep. McCormack of Burlington, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

The purpose of this act is to adopt federal appliance and lighting efficiency standards in effect on January 19, 2017 so that the same standards will be in place in Vermont should the federal standards be repealed or voided. The act also adopts federal standards for general service lighting that have been adopted by the U.S. Department of Energy and are scheduled to come into effect on January 20, 2020, again so that the same standards will be in place in Vermont. The act does not adopt standards for other products or standards for a product that are different from the federal standards.

Sec. 2. 9 V.S.A. § 2793 is amended to read:

§ 2793. DEFINITIONS

As used in this chapter:

* * *

(15) “General service lamp” has the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22 (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).

Sec. 3. 9 V.S.A. § 2794 is amended to read:

§ 2794. SCOPE

(a) The provisions of this chapter apply to the following types of new products sold, offered for sale, or installed in the State:

- (1) Medium voltage dry-type distribution transformers.
- (2) Metal halide lamp fixtures.

- (3) Residential furnaces and residential boilers.
- (4) Single-voltage external AC to DC power supplies.
- (5) State-regulated incandescent reflector lamps.
- (6) General service lamps.

(7) Each other product for which the Commissioner is required to adopt an efficiency or water conservation standard by rule pursuant to section 2795 of this title.

(8) Any other product that may be designated by the Commissioner in accordance with section 2797 of this title.

(b) The provisions of this chapter do not apply to:

(1) New products manufactured in the State and sold outside the State and the equipment used in manufacturing those products.

(2) New products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State.

(3) Products installed in mobile manufactured homes at the time of construction.

(4) Products designed expressly for installation and use in recreational vehicles.

Sec. 4. 9 V.S.A. § 2795 is amended to read:

§ 2795. EFFICIENCY AND WATERCONSERVATIONSTANDARDS

~~Not later than June 1, 2007, the~~ The Commissioner shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 establishing minimum efficiency standards for the types of new products set forth in section 2794 of this title. The rules shall provide for the following minimum efficiency standards for products sold or installed in this State:

* * *

(6) In the rules, the Commissioner shall adopt minimum efficiency and water conservation standards for each product that is subject to a standard under 10 C.F.R. §§ 430 and 431 as those provisions existed on January 19, 2017. The minimum standard and the testing protocol for each product shall be the same as adopted in those sections of the Code of Federal Regulations.

(7) In the rules, the Commissioner shall adopt a minimum efficacy standard for general service lamps of 45 lumens per watt, when tested in accordance with 10 C.F.R. § 430.23(gg) as that provision existed on January 19, 2017.

Sec. 5. 9 V.S.A. § 2796 is amended to read:

§ 2796. IMPLEMENTATION

* * *

(f)(1) When federal preemption under 42 U.S.C. § 6297 applies to a standard adopted pursuant to this chapter for a product, the standard shall become enforceable on the occurrence of the earliest of the following:

(A) The federal energy or water conservation standard for the product under 42 U.S.C. chapter 77 is withdrawn, repealed, or otherwise voided. However, this subdivision (A) shall not apply to any federal energy or water conservation standard set aside by a court of competent jurisdiction upon the petition of a person who will be adversely affected, as provided in 42 U.S.C. § 6306(b).

(B) A waiver is issued pursuant to 42 U.S.C. § 6297.

(2) The federal standard for general service lamps shall be considered to be withdrawn, repealed, or otherwise voided within the meaning of this subsection if it does not come into effect on January 20, 2020 pursuant to the actions published at 82 Fed. Reg. 7276 and 7333 (January 19, 2017).

(3) When a standard adopted pursuant to this chapter becomes enforceable under this subsection, a person shall not sell or offer for sale in the State a new product subject to the standard unless the efficiency or water conservation of the new product meets or exceeds the requirements set forth in the standard.

Sec. 6. RULE ADOPTION; SCHEDULE; REPORT

(a) Rule adoption; schedule.

(1) On or before August 1, 2017, the Commissioner of Public Service shall file with the Secretary of State proposed rules to effect Sec. 2 of this act.

(2) On or before April 1, 2018, the Commissioner shall finally adopt these rules, unless the Legislative Committee on Administrative Rules extends this date pursuant to 3 V.S.A. § 843(c).

(b) Reports.

(1) On or before December 15, 2017, the Commissioner of Public Service shall file a progress report on the rulemaking required by this act. The report shall attach the proposed rules as filed with the Secretary of State.

(2) On or before December 15, 2018, the Commissioner of Public Service shall file a further progress report on the rulemaking required by this act. The report shall attach the rules as finally adopted by the Commissioner.

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 7-1-0)

H. 424

An act relating to the Commission on Act 250: the Next 50 Years

Rep. Sullivan of Burlington, for the Committee on Natural Resources; Fish & Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS; PURPOSE

(a) Findings. The General Assembly finds as follows:

(1) In 1969, Governor Deane Davis by executive order created the Governor's Commission on Environmental Control, which consisted of 12 members and became known as the Gibb Commission because it was chaired by Representative Arthur Gibb.

(2) The Gibb Commission's recommendations, submitted in 1970, included a new State system for reviewing and controlling plans for large-scale and environmentally sensitive development. The system was not to be centered in Montpelier. Instead, the power to review projects and grant permits would be vested more locally, in commissions for districts within the State.

(3) In 1970, the General Assembly enacted 1970 Acts and Resolves No. 250, an act to create an environmental board and district environmental commissions. This act is now codified at 10 V.S.A. chapter 151 and is commonly known as Act 250. In Sec. 1 of Act 250 (the Findings), the General Assembly found that:

(A) "the unplanned, uncoordinated and uncontrolled use of the lands and the environment of the state of Vermont has resulted in usages of the lands and the environment which may be destructive to the environment and which are not suitable to the demands and needs of the people of the state of Vermont";

(B) "a comprehensive state capability and development plan and land use plan are necessary to provide guidelines for utilization of the lands and environment of the state of Vermont and to define the goals to be achieved through land environmental use, planning and control";

(C) "it is necessary to establish an environmental board and district environmental commissions and vest them with the authority to regulate the use of the lands and the environment of the state according to the guidelines

and goals set forth in the state comprehensive capability and development plan and to give these commissions the authority to enforce the regulations and controls”; and

(D) “it is necessary to regulate and control the utilization and usages of lands and the environment to insure that, hereafter, the only usages which will be permitted are not unduly detrimental to the environment, will promote the general welfare through orderly growth and development and are suitable to the demands and needs of the people of this state.”

(4) In 1973 Acts and Resolves No. 85, Secs. 6 and 7, the General Assembly adopted the Capability and Development Plan (the Plan) called for by Act 250. Among the Plan’s objectives are:

(A) “Preservation of the agricultural and forest productivity of the land, and the economic viability of agricultural units, conservation of the recreational opportunity afforded by the state’s hills, forests, streams and lakes, wise use of the state’s non-renewable earth and mineral reserves, and protection of the beauty of the landscape are matters of public good. Uses which threaten or significantly inhibit these resources should be permitted only when the public interest is clearly benefited thereby.”

(B) “Increased demands for and costs of public services, such as schools, road maintenance, and fire and police protection must be considered in relation to available tax revenues and reasonable public and private capital investment. . . . Accordingly, conditions may be imposed upon the rate and location of development in order to control its impact upon the community.”

(C) “Strip development along highways and scattered residential development not related to community centers cause increased cost of government, congestion of highways, the loss of prime agricultural lands, overtaxing of town roads and services and economic or social decline in the traditional community center.”

(D) “Provision should be made for the renovation of village and town centers for commercial and industrial development, where feasible, and location of residential and other development off the main highways near the village center on land which is other than primary agricultural soil.”

(E) “In order to achieve a strong economy that provides satisfying and rewarding job and investment opportunities and sufficient income to meet the needs and aspirations of the citizens of Vermont, economic development should be pursued selectively so as to provide maximum economic benefit with minimal environmental impact.”

(b) Purpose. In light of Act 250’s upcoming 50th anniversary, the General Assembly establishes the Commission on Act 250: the Next 50 Years, in order

to review and make recommendations on improving the effectiveness and efficiency of the Act as currently implemented in achieving the goals set forth in the Findings and the Capability and Development Plan, which in this act will be referred to as “the Act 250 goals.” The General Assembly intends that the Commission provide information to the public on the history and implementation of Act 250 and solicit proposals and input from the public on the matters within its charge. The General Assembly also intends that the Commission’s recommendations enable the Act 250 program, going forward, to meet the Act 250 goals and to safeguard Vermont’s environment effectively and efficiently.

(c) Executive Branch working group. Contemporaneously with the consideration of this act by the General Assembly, the Chair of the Natural Resources Board (NRB) has convened a working group on Act 250 to include the NRB and the Agencies of Commerce and Community Development and of Natural Resources, with assistance from the Agencies of Agriculture, Food and Markets and of Transportation. The working group intends to make recommendations during October 2017. The General Assembly intends that the Commission established by this act receive and consider information and recommendations offered by the working group convened by the Chair of the NRB.

Sec. 2. COMMISSION ON ACT 250: THE NEXT 50 YEARS; REPORT;
APPROPRIATION

(a) Establishment. There is established the Commission on Act 250: the Next 50 Years to:

(1) provide information regarding Act 250 and its operation and implementation to date; and

(2) review and make recommendations on improving the effectiveness and efficiency of the Act as currently implemented in achieving the Act 250 goals.

(b) Membership. The Commission shall be composed of the following 11 members:

(1) Four current members of the General Assembly with knowledge and expertise in one or more of the following areas: conservation and development, natural resources, or judicial or quasi-judicial process. Of these members:

(A) two shall be members of the House of Representatives, appointed by the Speaker of the House; and

(B) two shall be members of the Senate, appointed by the Committee

on Committees.

(2) The Chair of the Natural Resources Board or designee.

(3) A representative of a Vermont-based, statewide environmental organization that has a focus on land use and significant experience in the Act 250 process, appointed by the Committee on Committees.

(4) A person with significant experience in real estate development and land use permitting, including Act 250, appointed by the Speaker of the House.

(5) A representative of the Vermont Planners Association, appointed by the Governor.

(6) A member of a Vermont-based statewide business organization, appointed by the Governor.

(7) A person who is the owner of a small business that has had to obtain permits under Act 250, appointed by the Governor.

(8) A person currently serving in the position of an elected officer of a Vermont city or town, appointed by the Governor.

(c) Public meetings. The Commission shall conduct seven public meetings in different regions of the State to provide information and collect public input regarding the protections and process of Act 250, with the seventh meeting to occur in Montpelier. The Commission shall collaborate with regional and municipal planning organizations. At these meetings, the Commission shall provide the information described in subsection (d) of this section and solicit input and proposals from the public on the issues identified in subsection (e) of this section. In addition to public meetings, the Commission shall use social media and other online mechanisms to survey and obtain information from the public.

(d) Information. The Commission shall summarize and present to the public:

(1) the purpose and requirements of Act 250 and the rules adopted pursuant to the Act, and the process for appealing decisions;

(2) the history of Act 250 and its implementation; and

(3) the data on numbers of applications and appeals and processing times for each.

(e) Study; recommendations. In performing the review and making the recommendations described in subsection (a) of this section:

(1) The Commission shall examine the criteria at 10 V.S.A. § 6086(a) and make recommendations to:

(A) Ensure that the requirements of the criteria reflect current science and research. This inquiry shall include specific examination of the Act 250 criteria related to air, water, waste, habitat protection, forestland, and the impact of development on the budgets, facilities, and infrastructure of local, regional, and State governments.

(B) Ensure that the criteria address the issue of climate change, including reducing greenhouse gas emissions from projects subject to the Act and ensuring that those projects are prepared for the potential effects of climate change. In 2013 Acts and Resolves No. 89, Sec. 1(1), the General Assembly found that “[t]he primary driver of climate change in Vermont and elsewhere is the increase of atmospheric carbon dioxide (CO2) from the burning of fossil fuels.”

(C) Ensure that the criteria support development in centers designated under 24 V.S.A. chapter 76A and preserve, outside designated centers, natural resources, working farms, and working forests, including a healthy forest industry and a healthy ecosystem protected from fragmentation. The Commission also shall consider the impact of these policies on towns in which physical or other constraints may inhibit development in or expansion of existing settlements.

(D) Ensure that the criteria address any other issues related to the impacts of developments and subdivisions that the Commission determines have emerged since passage of the Act, including issues that may be raised by changes in the environmental protections afforded by federal law and regulation.

(2) The Commission shall examine potential changes to Act 250 jurisdiction to encourage development in designated centers and protect natural resources outside those centers, including working farms and forestland.

(3) The Commission shall examine whether efficiencies in Act 250 are available based on each of the planning and permitting processes listed in this subdivision and, based on this examination, make recommendations, if any, on ways to achieve those efficiencies while preserving the authority of the Act.

(A) In performing this examination, the Commission shall consider the compatibility with Act 250 of the scope, criteria, and procedures for each of these processes, which are:

(i) current environmental regulation by the Agency of Natural Resources;

(ii) current implementation of municipal and regional land use planning and regulation; and

(iii) the designations available under 24 V.S.A. chapter 76A.

(B) The Commission’s examination shall identify changes in these planning and permitting processes that would assist in making Act 250 more effective and efficient.

(4) The Commission shall review the efficiency and effectiveness of the process before the District Commissions in achieving the Act 250 goals and whether changes could better meet these goals and improve the process for participants, including applicants and other parties, and shall make its resulting recommendations, if any.

(5) The Commission shall examine the effectiveness and efficiency of the current appeals process in achieving the Act 250 goals and whether changes could better meet these goals, and make its recommendations, if any, on how to improve the appeals process to achieve them. This inquiry shall include consideration of:

(A) barriers, if any, in the current appeals process that discourage participation;

(B)(i) the use of de novo hearing or on the record review on appeal of Act 250 decisions; and

(ii) if de novo hearing is retained, barriers in the current appeals process, if any, that inhibit reaching decisions on the merits of whether a project meets the Act 250 criteria on appeal; and

(C) comparison of the cost, length of time, and efficiency of the appeals process before the Environmental Division of the Superior Court as compared to the appeals process before the former Environmental Board.

(6) The Commission shall examine whether the intent of Act 250 to encourage citizen participation is being achieved effectively and identify ways to improve citizen participation in Act 250.

(7) The Commission shall examine the role of the Natural Resources Board and alternatives to the Board model in administering the Act 250 program, including whether the Board as currently constituted is the most effective and efficient structure to administer Act 250.

(8) The Commission shall examine the circumstances under which land might be released from Act 250 jurisdiction when the use of land has changed to a use that would not constitute a development or subdivision within the meaning of the Act. The Commission shall propose a process and criteria under which such a release might be allowed.

(9) The Commission shall examine the definitions of “development” and “subdivision” contained in the Act and consider whether changes to those definitions would better achieve the Act 250 goals, including:

(A) examining changes to improve the ability of the Act to protect forest blocks and habitat connectivity;

(B) reviewing the scope of Act 250's jurisdiction over projects on ridgelines, including its ability to protect ridgelines that are lower than 2,500 feet, and projects on ridgelines that are expressly exempted from Act 250; and

(C) considering projects that involve land in more than one town and one of the towns has both permanent zoning and subdivision bylaws and one of the towns does not have both sets of bylaws.

(f) Report. The Commission shall consider the public input and proposals provided under subsection (c) of this section and the issues set forth in subsection (e) of this section and shall report its findings and recommendations for legislative action to the House Committee on Natural Resources, Fish and Wildlife and the Senate Committee on Natural Resources and Energy (the Natural Resource Committees). The report shall attach proposed legislation. The report of the Commission shall be submitted on or before January 15, 2019 and on submission shall be posted to the web pages of the Natural Resources Committees.

(g) Assistance.

(1) The staff of the Natural Resources Board shall provide professional, legal, and administrative services to the Commission, including the scheduling of meetings and the preparation of the Commission's report.

(2) The Office of Legislative Council shall provide legal services to the Commission, including drafting the Commission's proposed legislation.

(3) The Commission shall have technical services of the Agencies of Commerce and Community Development, of Natural Resources, and of Transportation and, on request, shall be entitled to legal assistance from those agencies in their areas of expertise.

(4) On request, the Commission shall be entitled to financial assistance from the Joint Fiscal Office and to data from the Superior Court on appeals before the Environmental Division from decisions under Act 250, including annual numbers of appeals, length of time, and disposition.

(5) The Commission may request that an organization that has a member on the Commission make available to the Commission information or professional or technical resources that the member's organization already possesses.

(h) Meetings; officers.

(1) In addition to the public meetings required under subsection (c) of this section, the Commission may meet as needed to perform its tasks, and

shall cease to exist on February 15, 2019.

(2) The staff of the Natural Resources Board and the Office of Legislative Council jointly shall convene the first meeting of the Commission to occur during October 2017. At that meeting, the Commission shall:

(A) elect a chair from among its legislative members and a vice chair from among its members; and

(B) receive the information and recommendations developed by the working group described in Sec. 1(c) of this act.

(3) The Commission may appoint members of the Commission to subcommittees to which it assigns tasks related to specific issues within the Commission's charge.

(4) Meetings of the Commission and subcommittees shall be subject to the Vermont Open Meeting Law and 1 V.S.A. § 172.

(i) Reimbursement.

(A) For attendance at no more than 10 Commission meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(B) Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than 10 Commission meetings. These costs shall be allocated to the budget of the Natural Resources Board and District Environmental Commissions.

(C) There shall be no reimbursement for attendance at subcommittee meetings or more than 10 Commission meetings.

(j) Facilitator; retention; appropriation. On behalf of the Commission, the Office of Legislative Council shall be authorized to retain, after a competitive bid process, a professional facilitator to assist the Commission in the development of information to be presented or provided at the public meetings under subsection (c) of this section; the conduct of these meetings; the use of social media and other online mechanisms to survey and obtain information from the public; and in making decisions on its report and recommendations. The facilitator shall attend each of the public meetings conducted under subsection (c) of this section. During fiscal year 2018, the sum of \$50,000.00 is appropriated to the Office of Legislative Council for the purpose of this subsection and the expenditure of up to \$50,000.00 for this purpose is authorized.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 7-2-0)

H. 462

An act relating to social media privacy for employees

Rep. Hill of Wolcott, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 495k is added to read:

§ 495k. SOCIAL MEDIA ACCOUNT PRIVACY;PROHIBITIONS

(a) As used in this section:

(1) “Social media account” means an account with an electronic medium or service through which users create, share, and interact with content, including videos, still photographs, blogs, video blogs, podcasts, instant or text messages, e-mail, online services or accounts, or Internet website profiles or locations. “Social media account” does not include an account provided by an employer or intended to be used primarily on behalf of an employer.

(2) “Specifically identified content” means data, information, or other content stored in a social media account that is identified with sufficient particularity to distinguish the individual piece of content being sought from any other data, information, or content stored in the account. “Specifically identified content” shall not include a username, password, or other means of authentication for the purpose of accessing an employee’s or applicant’s social media account.

(b) An employer shall not require, request, or coerce an employee or applicant to do any of the following:

(1) disclose a username, password, or other means of authentication, or turn over an unlocked personal electronic device for the purpose of accessing the employee’s or applicant’s social media account;

(2) access a social media account in the presence of the employer;

(3) divulge or present any content from the employee’s or applicant’s social media account; or

(4) change the account or privacy settings of the employee’s or applicant’s social media account to increase third-party access to its contents.

(c) An employer shall not require or coerce an employee or applicant to

add anyone, including the employer, to their list of contacts associated with a social media account.

(d) No agreement by an employee to waive his or her rights under this section shall be valid.

(e)(1) Nothing in this section shall preclude an employer from requesting an employee to share specifically identified content for the purpose of:

(A) complying with the employer's legal and regulatory obligations;

(B) investigating an allegation of the unauthorized transfer or disclosure of an employer's proprietary or confidential information or financial data through an employee's or an applicant's social media account; or

(C) investigating an allegation of unlawful harassment, threats of violence in the workplace, or discriminatory or disparaging content concerning another employee.

(2) Nothing in this section shall prohibit or restrict a law enforcement agency, as defined in 15 V.S.A. § 1151(5), from requesting or requiring:

(A) an applicant to provide access to the applicant's social media account as part of a screening or fitness determination during the hiring process; or

(B) an employee to provide access to the employee's social media account in relation to a continued fitness determination or an allegation or investigation of employee misconduct, a violation of policy, or a violation of law.

(3) Nothing in this section shall restrict or otherwise prohibit a law enforcement agency, as defined in 15 V.S.A. § 1151(5), from retaining any social media account information acquired pursuant to this subsection, provided that the information shall be protected in accordance with law and the law enforcement agency's policy.

(f) Nothing in this section shall preclude an employer from requesting a username or password that is necessary to access an employer-issued electronic device.

(g) An employer shall not discharge or in any other manner retaliate against an employee who exercises or attempts to exercise his or her rights under this section. The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on January 1, 2018.

(Committee Vote: 10-0-1)

Favorable

H. 290

An act relating to clarifying ambiguities relating to real estate titles and conveyances

Rep. Dickinson of St. Albans Town, for the Committee on Judiciary, recommends the bill ought to pass.

(Committee Vote: 7-4-0)

For Informational Purposes

CROSS OVER DATES

All **House** bills referred pursuant to House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means should be reported out by the last of those committees on or before **Friday, March 24, 2017**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.