

Journal of the Senate

THURSDAY, APRIL 20, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Elissa JohnK of East Montpelier.

Message from the House No. 48

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to House bill entitled:

H. 494. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Brennan of Colchester
Rep. Potter of Clarendon
Rep. Bissonnette of Winooski.

The House has considered a bill originating in the Senate of the following title:

S. 23. An act relating to juvenile jurisdiction.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

Bill Referred to Committee on Finance

S. 113.

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to food and lodging establishments.

Bill Referred to Committee on Appropriations

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

H. 238.

An act relating to modernizing and reorganizing Title 7.

Proposal of Amendment; Third Reading Ordered

H. 230.

Senator McCormack, for the Committee on Health and Welfare, to which was referred House bill entitled:

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

Reported recommending that the Senate propose to the House to amend the bill by striking out 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

A minor may give consent to receive any legally authorized outpatient treatment from a mental health professional, as defined in section 7101 of this title. 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. 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.

And that after passage the title of the bill be amended to read:

An act relating to consent by minors for mental health treatment.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 513.

Senator Baruth, for the Committee on Education, to which was referred House bill entitled:

An act relating to making miscellaneous changes to education law.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Approved Independent Schools Study Committee * * *

Sec. 1. APPROVED INDEPENDENT SCHOOLS STUDY COMMITTEE

(a) Creation. There is created the Approved Independent Schools Study Committee to consider and make recommendations on the criteria to be used by the State Board of Education for designation as an “approved” independent school.

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

(1) one current member of the House of Representatives who shall be appointed by the Speaker of the House;

(2) one current member of the Senate who shall be appointed by the Committee on Committees;

(3) the Chair of the State Board of Education or designee;

(4) the Secretary of Education or designee;

(5) the Executive Director of the Vermont Superintendent’s Association or designee;

(6) the Executive Director of the Vermont School Boards Association or designee;

(7) the Executive Director of the Vermont Independent Schools Association or designee;

(8) two representatives of approved independent schools, who shall be chosen by the Executive Director of the Vermont Independent Schools Association; and

(9) the Executive Director of the Vermont Council of Special Education Administrators or designee.

(c) Powers and duties. The Committee shall consider and make recommendations on the criteria to be used by the State Board of Education for designation as an “approved” independent school, including the following criteria:

(1) the school’s enrollment policy and any limitation on a student’s ability to enroll;

(2) how the school should be required to deliver special education services and which categories of these services; and

(3) the scope and nature of financial information and special education information that should be required to be reported by the school to the State Board or Agency of Education.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Report. On or before January 15, 2018, the Committee shall submit a written report to the House and Senate Committees on Education with its findings and any recommendations, including recommendations for any amendments to legislation.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Committee to occur on or before May 30, 2017.

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

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

(4) The Committee shall cease to exist on January 16, 2018.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than seven meetings.

(2) Other members of the Committee 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 seven meetings.

* * * Educational and Training Programs for College Credit * * *

Sec. 2. APPROPRIATION TO THE VERMONT STATE COLLEGES
TO EXPAND EDUCATION AND TRAINING EVALUATION
SERVICES PROGRAM

The sum of \$20,000.00 is appropriated from the Next Generation Initiative Fund created pursuant to 16 V.S.A. § 2887 to the Vermont State Colleges for the purpose of providing funding for the Colleges' Education and Training Evaluation Services Program. The Vermont State Colleges shall use the appropriation to evaluate or reevaluate educational and training programs for college credit at no cost or at a reduced cost to the programs being evaluated. The Vermont State Colleges shall identify training programs in the skilled trades, including the plumbing and electrical trades, to receive these evaluation services. The Vermont State Colleges shall, on or before January 15, 2018, issue a report to the House and Senate Committees on Education describing how the funds appropriated pursuant to this section have been spent, how any remaining funds appropriated pursuant to this section will be spent, and the number and nature of the programs evaluated or reevaluated and the results of the evaluations.

* * * Student Enrollment; Small School Grant * * *

Sec. 3. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

(1) "Eligible school district" means a school district that operates at least one school; and

(A) has a two-year average combined enrollment of fewer than 100 students in all the schools operated by the district; or

(B) has an average grade size of 20 or fewer.

(2) "Enrollment" means the number of students who are enrolled in a school operated by the district on October 1. A student shall be counted as one whether the student is enrolled as a full-time or part-time student. Students enrolled in prekindergarten programs shall not be counted.

(3) "Two-year average enrollment" means the average enrollment of the two most recently completed school years.

(4) “Average grade size” means two-year average enrollment divided by the number of grades taught in the district on October 1. For purposes of this calculation, kindergarten and prekindergarten programs shall be counted together as one grade.

* * *

* * * Vermont Standards Board for Professional Educators * * *

Sec. 4. 16 V.S.A. § 1693 is amended to read:

§ 1693. STANDARDS BOARD FOR PROFESSIONAL EDUCATORS

(a) There is hereby established the Vermont Standards Board for Professional Educators comprising 13 members as follows: seven teachers, two administrators, one of whom shall be a school superintendent, one public member, one school board member, one representative of educator preparation programs from a public institution of higher education, and one representative of educator preparation programs from a private institution of higher education.

* * *

Sec. 5. TRANSITIONAL PROVISION

A superintendent shall be appointed to the Vermont Standards Board for Professional Educators upon the next expiration of the term of a member who is serving on the Board as an administrator.

* * * Speech-Language Pathologists * * *

Sec. 6. 26 V.S.A. § 4451 is amended to read:

§ 4451. DEFINITIONS

As used in this chapter:

* * *

(5) “Educational speech-language pathologist” means a speech-language pathologist who is employed by a supervisory union or public school district in Vermont or an independent school approved for special education purposes for the purpose of providing speech-language pathology.

(6) “Secretary” means the Secretary of State.

~~(6)~~(7) “Speech-language pathologist” means a person licensed to practice speech-language pathology under this chapter, but shall not include an educational speech-language pathologist.

~~(7)~~(8) “Speech-language pathology” means the application of principles, methods, and procedures related to the development and disorders of human

communication, which include any and all conditions that impede the normal process of human communication.

Sec. 7. 26 V.S.A. § 4454 is amended to read:

§ 4454. CONSTRUCTION

(a) This chapter shall not be construed to limit or restrict in any way the right of a practitioner of another occupation that is regulated by this State from performing services within the scope of his or her professional practice.

(b) This chapter shall not be construed to apply to an educational speech-language pathologist, except to the extent that an educational speech-language pathologist provides speech-language pathology services outside a school environment. An educational speech-language pathologist shall be subject to the licensing, training, and professional standards provisions of 16 V.S.A. chapter 51. To the extent that an educational speech-language pathologist provides speech-language pathology services outside a school environment, the educational speech-language pathologist shall be subject to the licensing, training, and professional standards provisions of this chapter.

Sec. 8. TRANSITIONAL PROVISION

An individual holding an educator license with an endorsement for educational speech-language pathologist from the Agency of Education shall retain that endorsement and shall renew it with the Agency as required by law, in addition to licensure with the Agency of Education.

* * * Renewal of Principal's Contracts * * *

Sec. 9. 16 V.S.A. § 243(c) is amended to read:

(c) Renewal and nonrenewal. A principal who has been continuously employed for more than two years in the same position has the right either to have his or her contract renewed, or to receive written notice of nonrenewal ~~at least 90 days before~~ on or before February 1 of the year in which the existing contract expires. Nonrenewal may be based upon elimination of the position, performance deficiencies, or other reasons. The written notice shall recite the grounds for nonrenewal. If nonrenewal is based on performance deficiencies, the written notice shall be accompanied by an evaluation performed by the superintendent. At its discretion, the school board may allow a period of remediation of performance deficiencies prior to issuance of the written notice. After receiving such a notice, the principal may request in writing, and shall be granted, a meeting with the school board. Such request shall be delivered within 15 days of delivery of notice of nonrenewal, and the meeting shall be held within 15 days of delivery of the request for a meeting. At the meeting, the school board shall explain its position, and the principal shall be allowed to

respond. The principal and any member of the board may present written information or oral information through statements of others, and the principal and the board may be represented by counsel. The meeting shall be in executive session unless both parties agree in writing that it be open to the public. After the meeting, the school board shall decide whether or not to offer the principal an opportunity to renew his or her contract. The school board shall issue its decision in writing within five days. The decision of the school board shall be final.

* * * Postsecondary Schools * * *

Sec. 10. 16 V.S.A § 176(d) is amended to read:

(d) Exemptions. The following are exempt from the requirements of this section except for the requirements of subdivision (c)(1)(C) of this section:

* * *

(4) Postsecondary schools that are accredited. The following postsecondary institutions are accredited, meet the criteria for exempt status, and are authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate: Bennington College, ~~Burlington College~~, Champlain College, College of St. Joseph, Goddard College, Green Mountain College, Landmark College, Marlboro College, Middlebury College, New England Culinary Institute, Norwich University, Saint Michael's College, SIT Graduate Institute, Southern Vermont College, Sterling College, Vermont College of Fine Arts, and Vermont Law School. This authorization is provided solely to the extent necessary to ensure institutional compliance with federal financial aid-related regulations, and it does not affect, rescind, or supersede any preexisting authorizations, charters, or other forms of recognition or authorization.

* * *

* * * Educational Opportunities * * *

Sec. 11. 16 V.S.A § 165(b) is amended to read:

(b) ~~Every two years~~ Annually, the Secretary shall determine whether students in each Vermont public school are provided educational opportunities substantially equal to those provided in other public schools. If the Secretary determines that a school is not meeting the education quality standards listed in subsection (a) of this section or that the school is making insufficient progress in improving student performance in relation to the standards for student performance set forth in subdivision 164(9) of this title, he or she shall describe in writing actions that a district must take in order to meet either or both sets of standards and shall provide technical assistance to the school. If

the school fails to meet the standards or make sufficient progress ~~by the end of the next two year period within two years of the determination~~, the Secretary shall recommend to the State Board one or more of the following actions:

* * *

* * * Local Education Agency * * *

Sec. 12. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

The school board of a school district, in addition to other duties and authority specifically assigned by law:

* * *

~~(26) Shall carry out the duties of a local education agency, as that term is defined in 20 U.S.C. § 7801(26), for purposes of determining student performance and application of consequences for failure to meet standards and for provision of compensatory and remedial services pursuant to 20 U.S.C. §§ 6311-6318. [Repealed.]~~

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* * * State-placed and Homeless Students * * *

Sec. 13. 16 V.S.A § 1075 is amended to read:

§ 1075. LEGAL RESIDENCE DEFINED; RESPONSIBILITY AND PAYMENT OF EDUCATION OF STUDENT

* * *

(c) State-placed students.

(1) A State-placed student in the legal custody of the Commissioner for Children and Families, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by the school district in which the student is living the student's school of origin, unless an alternative plan or facility for the education of the student is agreed upon by Secretary the student's education team determines that it is not in the student's best interest to attend the school of origin. The student's education team shall include, as applicable, the student, the student's parents and foster parents, the student's guardian ad litem and educational surrogate parent, representatives of both the school of origin and potential new school, and a representative of the Family Services Division of the Department for Children and Families. In the case of a dispute as to ~~where a State-placed student is living~~, the Secretary shall conduct a hearing to determine which school district is responsible for educating the student. ~~The Secretary's decision shall be final~~

about whether it is in the student's best interest to attend the school of origin, the Commissioner for Children and Families shall make the final decision. As used in this section, "school of origin" means the school in which the child was enrolled at the time of placement into custody of the Commissioner for Children and Families, or in the case of a student already in the custody of the Commissioner for Children and Families, the school the student most recently attended.

(2) If a student is a State-placed student pursuant to subdivision 11(a)(28)(D)(i)(I) of this title, then the Department for Children and Families shall ~~assume responsibility~~ be responsible for the student's transportation to and from school, unless the receiving district chooses to provide transportation.

(3) A State-placed student not in the legal custody of the Commissioner for Children and Families, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by the school district in which the student is living unless an alternative plan or facility for the education of the student is agreed upon by the Secretary. In the case of dispute as to where a State-placed student is living, the Secretary shall conduct a hearing to determine which school district is responsible for educating the student. The Secretary's decision shall be final.

(4) A student who is in temporary legal custody pursuant to 33 V.S.A. § 5308(b)(3) or (4) and is a State-placed student pursuant to subdivision 11(a)(28)(D)(i)(II) of this title, shall be enrolled, at the temporary legal custodian's discretion, in the district in which the student's parents reside, the district in which either parent resides if the parents live in different districts, the district in which the student's legal guardian resides, or the district in which the temporary legal custodian resides. If the student enrolls in the district in which the temporary legal custodian resides, the district shall provide transportation in the same manner and to the same extent it is provided to other students in the district. In all other cases, the temporary legal custodian is responsible for the student's transportation to and from school, unless the receiving district chooses to provide transportation.

~~(4)~~(5) If a student who had been a State-placed student pursuant to subdivision 11(a)(28) of this title is returned to live in the district in which one or more of the student's parents or legal guardians reside, then, at the request of the student's parent or legal guardian, the Secretary may order the student to continue his or her enrollment for the remainder of the academic year in the district in which the student resided prior to returning to the parent's or guardian's district and the student will continue to be funded as a State-placed student. Unless the receiving district chooses to provide transportation:

* * *

(e) For the purposes of this title, the legal residence or residence of a child of homeless parents is ~~where the child temporarily resides~~ the child's school of origin, as defined in subdivision (c)(1) of this section, unless the parents and another school district agree that the child's attendance in school in that school district will be in the best interests of the child ~~in that continuity of education will be provided and transportation will not be unduly burdensome to the school district.~~ A "child of homeless parents" means a child whose parents:

* * *

* * * Early College * * *

Sec. 14. REPEAL

16 V.S.A § 4011(e) (early college) is repealed.

Sec. 15. 16 V.S.A § 946 is added to read:

§ 946. EARLY COLLEGE

(a) For each grade 12 Vermont student enrolled, the Secretary shall pay an amount equal to 87 percent of the base education amount to:

(1) the Vermont Academy of Science and Technology (VAST); and

(2) an early college program other than the VAST program that is developed and operated or overseen by the University of Vermont, by one of the Vermont State Colleges, or by an accredited private postsecondary school located in Vermont and that is approved for operation by the Secretary; provided, however, when making a payment under this subdivision (2), the Secretary shall not pay more than the tuition charged by the institution.

(b) The Secretary shall make the payment pursuant to subsection (a) of this section directly to the postsecondary institution, which shall accept the amount as full payment of the student's tuition.

(c) A student on whose behalf the Secretary makes a payment pursuant to subsection (a) of this subsection:

(1) shall be enrolled as a full-time student in the institution receiving the payment for the academic year for which payment is made;

(2) shall not be enrolled concurrently in a secondary school operated by the student's district of residence or to which the district pays tuition on the student's behalf; and

(3) shall not be included in the average daily membership of any school district for the academic year for which payment is made; provided, however,

that if more than five percent of the grade 12 students residing in a district enroll in an early college program, then the district may include the number of students in excess of five percent in its average daily membership; but further provided that a student in grade 12 enrolled in a college program shall be included in the percentage calculation only if, for the previous academic year, the student was enrolled in a school maintained by the district or was a student for whom the district paid tuition to a public or approved independent school.

(d) A postsecondary institution shall not accept a student into an early college program unless enrollment in an early college program was an element of the student's personalized learning plan.

Sec. 16. REPEAL

16 V.S.A. § 4011a (early college program; report; appropriations) is repealed.

Sec. 17. 16 V.S.A. § 947 is added to read:

§ 947. EARLY COLLEGE PROGRAM; REPORT; APPROPRIATION

(a) Notwithstanding 2 V.S.A. § 20(d), any postsecondary institution receiving funds pursuant to section 946 of this title shall report annually in January to the Senate and House Committees on Education regarding the level of participation in the institution's early college program, the success in achieving the stated goals of the program to enhance secondary students' educational experiences and prepare them for success in college and beyond, and the specific results for participating students relating to programmatic goals.

(b) In the budget submitted annually to the General Assembly pursuant to 32 V.S.A. chapter 5, the Governor shall include the recommended appropriation for all early college programs to be funded pursuant to section 946 of this title, including the VAST program, as a distinct amount.

* * * Advisory Council on Special Education * * *

Sec. 18. 16 V.S.A. § 2945(c) is amended to read:

(c) The members of the Council who are employees of the State shall receive no additional compensation for their services, but actual and necessary expenses shall be allowed State employees, and shall be charged to their departments or institutions. The members of the Council who are not employees of the State shall receive a per diem compensation of \$30.00 per day as provided under 32 V.S.A. § 1010 for each day of official business and reimbursement for actual and necessary expenses at the rate allowed State employees.

* * *

* * * Criminal Record Checks * * *

Sec. 19. 16 V.S.A. § 255(k) is added to read:

(k) The requirements of this section shall not apply to superintendents and headmasters with respect to persons operating or employed by a child care facility, as defined under 33 V.S.A. § 3511, that provides prekindergarten education pursuant to section 829 of this title and that is required to be licensed by the Department for Children and Families pursuant to 33 V.S.A. § 3502. Superintendents and headmasters are not prohibited from conducting a criminal record check as a condition of hiring an employee to work in a child care facility that provides prekindergarten education operated by the school.

* * * Agency Of Education Report; English Language Learners * * *

Sec. 20. AGENCY OF EDUCATION REPORT; ENGLISH LANGUAGE LEARNERS

As part of the management of federal funds for students for whom English is not the primary language, the Agency of Education shall convene at least one meeting of representatives from the supervisory unions and supervisory districts that receive these funds, including those responsible for the administration of these funds, which shall take place prior to the creation of budgets for the next school year. The meeting participants shall explore ways to reduce barriers to the use of funds available under the federal Elementary and Secondary Education Act and help the supervisory unions and supervisory districts develop strategies for best meeting the needs of students for whom English is not the primary language as permitted under federal and State law. In addition, the meeting participants shall discuss the weighting formulas for students from economically deprived backgrounds and students for whom English is not the primary language, and whether these formulas should be revised. The Agency of Education shall report the results of these discussions to the Senate and House Committees on Education on or before January 15, 2018.

* * * Prekindergarten Programs; STARS ratings * * *

Sec. 21. 16 V.S.A. § 829(c) is amended to read:

(c) Prequalification. Pursuant to rules jointly developed and overseen by the Secretaries of Education and of Human Services and adopted by the State Board pursuant to 3 V.S.A. chapter 25, the Agencies jointly may determine that a private or public provider of prekindergarten education is qualified for purposes of this section and include the provider in a publicly accessible database of prequalified providers. At a minimum, the rules shall define the

process by which a provider applies for and maintains prequalification status, shall identify the minimum quality standards for prequalification, and shall include the following requirements:

(1) A program of prekindergarten education, whether provided by a school district or a private provider, shall have received:

(A) National Association for the Education of Young Children (NAEYC) accreditation; or

(B) at least four stars in the Department for Children and Families' STARS system ~~with at least two points in each of the five arenas~~; or

(C) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families and the Secretary of Education, to achieve four or more stars in no more than two years ~~with at least two points in each of the five arenas~~, and the provider has met intermediate milestones.

* * *

* * * Act 46 Findings * * *

Sec. 22. ACT 46 FINDINGS

(a) 2015 Acts and Resolves No. 46 established a multi-year, phased process that provides multiple opportunities for school districts to unify existing governance units into more “sustainable governance structures” designed to meet the General Assembly’s identified educational and fiscal goals while recognizing and reflecting local priorities. It has been the General Assembly’s intent to revitalize Vermont’s small schools – to promote equity in their offerings and stability in their finances – through these changes in governance.

(b) As of Town Meeting Day 2017, voters in 96 Vermont towns have voted to merge 104 school districts into these slightly larger, more sustainable governance structures, resulting in the creation of 20 new unified union districts (serving prekindergarten–grade 12 students). As a result, approximately 60 percent of Vermont’s school-age children live or will soon live in districts that satisfy the goals of Act 46.

(c) These slightly larger, more flexible unified union districts have begun to realize distinct benefits, including the ability to offer kindergarten–grade 8 choice among elementary schools within the new district boundaries; greater flexibility in sharing students, staff, and resources among individual schools; the elimination of bureaucratic redundancies; and the flexibility to create magnet academies, focusing on a particular area of specialization by school.

(d) Significant areas of the State, however, have experienced difficulty satisfying the goals of Act 46. The range of complications is varied, including operating or tuitioning models that differ among adjoining districts, geographic isolation due to lengthy driving times or inhospitable travel routes between proposed merger partners, and greatly differing levels of debt per equalized pupil between districts involved in merger study committees. This act is designed to make useful changes to the merger time lines and allowable governance structures under Act 46 without weakening or eliminating the Act's fundamental phased merger and incentive structures and requirements.

* * * Side-by-Side Structures * * *

Sec. 23. 2012 Acts and Resolves No. 156, Sec. 15 is amended to read:

Sec. 15. TWO OR MORE MERGERS; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) ~~Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) of No. 153 of the Acts of the 2009 Adj. Sess. (2010) that requires a single regional education district ("RED") to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible jointly for the incentives provided in Sec. 4 of No. 153, Sec. 4 if:~~

* * *

~~(3) one of the new districts provides education in all elementary and secondary grades by operating one or more schools and the other new district or districts pay tuition for students in one or more grades; each new district has a model of operating schools or paying tuition that is different from the model of the other, which may include:~~

~~(A) operating a school or schools for all resident students in prekindergarten through grade 12;~~

~~(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or~~

~~(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12;~~

* * *

(b) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 24. THREE-BY-ONE SIDE-BY-SIDE STRUCTURE; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that requires a single regional education district (RED) to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, a new district shall be eligible for the incentives provided in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46 if:

(1) The new district is formed by the merger of at least three existing districts (Merged District) and, together with an existing district (Existing District), are members of the same supervisory union following the merger (Three-by-One Side-by-Side Structure).

(2) As of March 7, 2017 (Town Meeting Day), the Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education;

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District; or

(C) unable to reach agreement to consolidate with one or more other adjoining school districts because the school districts that adjoin the Existing District have greatly differing levels of indebtedness per equalized pupil, as defined in 16 V.S.A. § 4001(3), from that of the Existing District as determined by the State Board of Education.

(3) The Merged District and the Existing District each has a model of operating schools or paying tuition that is different from the model of the other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) The Three-by-One Side-by-Side Structure meets all criteria for RED formation other than the size criterion of 2010 Acts and Resolves No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as provided in this section.

(5) The districts seeking approval of their proposed Three-by-One Side-by-Side Structure demonstrate in their report presented to the State Board that this structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6, and will meet the goals set forth in Sec. 2 of that Act.

(6) The districts proposing to merge into the Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and the Merged District becomes fully operational on or before July 1, 2019.

(b) The incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 shall be available to the Merged District and shall not be available to the Existing District.

(c) The Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10 to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's plan.

Sec. 25. TWO-BY-TWO-BY-ONE SIDE-BY-SIDE STRUCTURE;
REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that requires a single regional education district (RED) to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible for the incentives provided in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46 if:

(1) Each new district is formed by the merger of at least two existing districts (each a Merged District) and, together with an existing (Existing District), are members of the same supervisory union following the merger (Two-by-Two-by-One Side-by-Side Structure).

(2) As of March 7, 2017 (Town Meeting Day), the Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education;

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District; or

(C) unable to reach agreement to consolidate with one or more other adjoining school districts because the school districts that adjoin the Existing

District have greatly differing levels of indebtedness per equalized pupil, as defined in 16 V.S.A. § 4001(3), from that of the Existing District as determined by the State Board of Education.

(3) Each Merged District and the Existing District has a model of operating schools or paying tuition that is different from the model of each other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) The Two-by-Two-by-One Side-by-Side Structure meets all criteria for RED formation other than the size criterion of 2010 Acts and Resolves No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as provided in this section.

(5) The districts seeking approval of their proposed Two-by-Two-by-One Side-by-Side Structure demonstrate in their report presented to the State Board that this structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6, and will meet the goals set forth in Sec. 2 of that act.

(6) Each Merged District has the same effective date of merger.

(7) The districts proposing to merge into each Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and each Merged District becomes fully operational on or before July 1, 2019.

(b) The incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 shall be available to each Merged District and shall not be available to the Existing District.

(c) The Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10 to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's plan.

* * * Withdrawal from Union School District * * *

Sec. 26. TEMPORARY AUTHORITY TO WITHDRAW FROM UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of 16 V.S.A. § 721a to the contrary, a school district may withdraw from a union high school district without approval by the remaining members of the union high school district upon the following conditions:

(1) The school district proposing to withdraw from the union high school district operates a school or schools for all resident students in prekindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12.

(2) At least one year has elapsed since the union high school district became a body politic and corporate as provided in 16 V.S.A. § 706g.

(3) A majority of the voters of the school district proposing to withdraw from the union high school district present and voting at a school district meeting duly warned for that purpose votes to withdraw from the union high school district. The clerk of the school district shall certify the vote to the Secretary of State, who shall record the certificate in his or her office and shall give notice of the vote to the Secretary of Education and to the other members of the union high school district.

(4) The State Board approves the withdrawal based on a recommendation from the Secretary of Education.

(5) The withdrawal process is completed on or before July 1, 2019.

(b) In making his or her recommendation, the Secretary of Education shall assess whether:

(1) students in the withdrawing school district would attend a school that complies with the rules adopted by the State Board pertaining to educational programs; and

(2) it is in the best interests of the State, the students, and the districts remaining in the union high school district for the union to continue to exist.

(c) The State Board shall:

(1) consider the recommendation of the Secretary and any other information it deems appropriate;

(2) hold a public meeting within 60 days of receiving the recommendation of the Secretary, and provide due notice of this meeting to the Secretary and all members of the union high school district;

(3) within 10 days of the meeting, notify the Secretary and all members of the union high school district of its decision;

(4) if it approves the withdrawal, declare the membership of the withdrawing school district in the union high school district terminated as of July 1 immediately following, or as soon after July 1 as the financial obligations of the withdrawing school district have been paid to, or an agreement has been made with, the union high school district in an amount to satisfy those obligations; and

(5) file the declaration with the Secretary of State, the clerk of the withdrawing school district, and the clerk of the union high school district concerned.

Sec. 27. REPEAL

Sec. 26 of this act is repealed on July 2, 2019.

* * * Time Extension for Qualifying Districts * * *

Sec. 28. 2015 Acts and Resolves No. 46, Sec. 9 is amended to read:

Sec. 9. SELF-EVALUATION, MEETINGS, AND PROPOSAL

(a) ~~On~~ Subject to subsection (b) of this section, on or before November 30, 2017, the board of each school district in the State that:

(1) has a governance structure different from the preferred structure identified in Sec. 5(b) of this act (Education District), or that does not expect to become or will not become an Education District on or before July 1, 2019; or

(2) does not qualify for an exemption under Sec. 10(c) of this act, shall perform each of the following actions-:

~~(1)(A)~~ Self-evaluation. The board shall evaluate its current ability to meet or exceed each of the goals set forth in Sec. 2 of this act.

~~(2)(B)~~ Meetings.

~~(A)(i)~~ The board shall meet with the boards of one or more other districts, including those representing districts that have similar patterns of school operation and tuition payment, to discuss ways to promote improvement throughout the region in connection with the goals set forth in Sec. 2 of this act.

~~(B)(ii)~~ The districts do not need to be contiguous and do not need to be within the same supervisory union.

~~(3)(C)~~ Proposal. The board of the district, solely on behalf of its own district or jointly with the boards of other districts, shall submit a proposal to

the Secretary of Education and the State Board of Education in which the district:

~~(A)~~(i) proposes to retain its current governance structure, to work with other districts to form a different governance structure, or to enter into another model of joint activity;

~~(B)~~(ii) demonstrates, through reference to enrollment projections, student-to-staff ratios, the comprehensive data collected pursuant to 16 V.S.A. § 165, and otherwise, how the proposal in subdivision ~~(A)~~(i) of this subdivision ~~(3)~~(C) supports the district's or districts' ability to meet or exceed each of the goals set forth in Sec. 2 of this act; and

~~(C)~~(iii) identifies detailed actions it proposes to take to continue to improve its performance in connection with each of the goals set forth in Sec. 2 of this act; and

(iv) describes its history of merger, consolidation, or other models of joint activity with other school districts before the enactment of this act, and its consideration of merger, consolidation, or other models of joint activity with other school districts on or after the enactment of this act.

(b) The date by which a qualifying district must take the actions required by subsection (a) of this section is extended from November 30, 2017 to January 31, 2018. A qualifying district is a district that:

(1) proposed a school district consolidation plan under 2010 Acts and Resolves No. 153, as amended, or 2012 Acts and Resolves No. 156, as amended, which was rejected by voters;

(2) is a member of a study committee formed under 16 V.S.A. § 706 that provides to the Secretary a declaration that another school district wants to join the district's study committee, signed by each member of the study committee and the district that proposes to join the study committee; or

(3) is a member of a supervisory union that, on or after July 1, 2010, combined with another supervisory union.

Sec. 29. TIME EXTENSION FOR VOTE OF ELECTORATE

Notwithstanding any provision of law to the contrary, the date by which a qualifying district must receive final approval from the electorate for its merger proposal is extended from July 1, 2017 to November 30, 2017. A qualifying district is a district that:

(1) proposed a school district consolidation plan under 2010 Acts and Resolves No. 153, as amended, or 2012 Acts and Resolves No. 156, as amended, which was rejected by voters;

(2) is a member of a study committee formed under 16 V.S.A. § 706 that provides to the Secretary a declaration that another school district wants to join the district's study committee, signed by each member of the study committee and the district that proposes to join the study committee; or

(3) is a member of a supervisory union that, on or after July 1, 2010, combined with another supervisory union.

* * * Grants and Fee Reimbursement * * *

Sec. 30. 2015 Acts and Resolves No. 46, Sec. 7 is amended to read:

Sec. 7. SCHOOL DISTRICTS CREATED AFTER DEADLINE FOR ACCELERATED ACTIVITY; TAX INCENTIVES; SMALL SCHOOL SUPPORT; JOINT CONTRACT SCHOOLS

* * *

(b) A newly formed school district that meets the criteria set forth in subsection (a) of this section shall receive the following:

* * *

(3) Transition Facilitation Grant.

(A) After voter approval of the plan of merger, notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the transitional board of the new district a Transition Facilitation Grant from the Education Fund equal to the lesser of:

(i) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(ii) \$150,000.00.

(B) A Transition Facilitation Grant awarded under this subdivision (3) shall be reduced by the total amount of reimbursement paid for consulting services, analysis, and transition costs pursuant to 2012 Acts and Resolves No. 156, Secs. 2, 4, and 9.

* * *

(e) Notwithstanding the requirement in subdivision (a)(3) of this section that the newly formed school district be its own supervisory district, the newly formed school district shall qualify for the incentives under this section even if it is assigned to a supervisory union by the State Board of Education and that assignment by the State Board is not made at the request of the school district.

Sec. 31. 2012 Acts and Resolves No. 156, Sec. 9 is amended to read:

Sec. 9. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES;
MERGER; SCHOOL DISTRICTS; SUNSET

(a) From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall reimburse up to \$20,000.00 of fees paid by a study committee established under 16 V.S.A. § 706 for legal and other consulting services necessary to analyze the advisability of creating a union school district or a unified union school district ~~and~~, to prepare the report required by 16 V.S.A. § 706b, and to conduct community outreach, including communications with voters. Community outreach materials shall be limited to those that are reasonably designed to inform and educate. Not more than 30 percent of the reimbursement amount provided by the Secretary under this section shall be used for the purpose of community outreach.

* * *

Sec. 32. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE
STRUCTURES; PROPOSAL; FINAL PLAN

* * *

(d)(1) The Secretary of Education shall make a supplemental Transitional Facilitation Grant of \$10,000.00 to a school district that:

(A) has received or is eligible to receive tax incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended (a qualifying school district); and

(B) either on its own initiative or at the request of the State Board, agrees by vote of its electorate to merge with another school district (a qualifying merger).

(2) A qualifying school district shall use the grant funding to defray the cost of integration. The Secretary shall pay the grant amount to a qualifying school district for each qualifying merger with a school district even if multiple qualifying mergers are effective on the same date. The Secretary shall pay the grant amount not later than 30 days after all required approvals are obtained.

(3) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the supplemental Transition Facilitation Grant from the Education Fund.

(4) The supplemental Transition Facilitation Grant shall be available for a qualifying merger initiated by a qualifying school district only if the merger is scheduled to take effect on or before November 30, 2018.

* * * Applications for Adjustments to Supervisory Union Boundaries * * *

Sec. 33. 16 V.S.A. § 261 is amended to read:

§ 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY
UNIONS

(a) The State Board shall review on its own initiative or when requested as per subsection (b) of this section and may regroup the supervisory unions of the State or create new supervisory unions in such manner as to afford increased efficiency or greater convenience and economy and to facilitate prekindergarten through grade 12 curriculum planning and coordination as changed conditions may seem to require.

(b)(1) Any school district that has so voted at its annual school district meeting, if said meeting has been properly warned regarding such a vote, may request that the State Board adjust the existing boundaries of the supervisory union of which it is a member district.

(2) Any group of school districts that have so voted at their respective annual school district meeting, regardless of whether the districts are members of the same supervisory union, may request that the State Board adjust existing supervisory union boundaries and move one or more nonrequesting districts to a different supervisory union if such adjustment would assist the requesting districts to realign their governance structures into a unified union school district pursuant to chapter 11 of this title.

(3) The State Board shall ~~give timely consideration to requests~~ act on a request made pursuant to this subsection within 75 days of receipt of the request and may regroup the school districts of the area so as to ensure reasonable supervision of all public schools therein.

* * *

* * * Technical Corrections; Clarifications * * *

Sec. 34. 2012 Acts and Resolves No. 156, Sec. 16 is amended to read:

Sec. 16. UNION ELEMENTARY SCHOOL DISTRICTS; REGIONAL
EDUCATION DISTRICT INCENTIVES

* * *

(b) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 35. 2012 Acts and Resolves No. 156, Sec. 17 is amended to read:

Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

* * *

(d) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 36. AVAILABILITY OF TAX AND OTHER INCENTIVES

The tax and other incentives under 2010 Acts and Resolves No. 153, as amended, and 2012 Acts and Resolves No. 156, as amended, shall be available only if the new governance structure formed under those acts becomes fully operational on or before July 1, 2019.

Sec. 37. 2015 Acts and Resolves No. 46, Sec. 23 is amended to read:

Sec. 23. DECLINING ENROLLMENT; TRANSITION

(a) If a district's equalized pupils in fiscal year 2016 do not reflect any adjustment pursuant to 16 V.S.A. § 4010(f), then Sec. 22 of this act shall apply to the district in fiscal year 2017 and after.

(b) If a district's equalized pupils in fiscal year 2016 reflect adjustment pursuant to 16 V.S.A. § 4010(f), then, notwithstanding the provisions of § 4010(f) as amended by this act:

(1) in fiscal year 2017, the district's equalized pupils shall in no case be less than 90 percent of the district's equalized pupils in the previous year; and

(2) in fiscal year 2018, the district's equalized pupils shall in no case be less than 80 percent of the district's equalized pupils in the previous year.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a district is actively engaged in merger discussions with one or more other districts regarding the formation of a regional education district (RED) or other form of unified union school district pursuant to 16 V.S.A. chapter 11, then Sec. 22 of this act shall apply to the district in fiscal year 2018 and after, and each of the dates in subsection (b) of this section shall be adjusted accordingly. A district shall be "actively engaged in merger discussions" pursuant to this subsection (c) if on or before July 1, 2016, it has formed a study committee pursuant to 16 V.S.A. chapter 11. Until such time as Sec. 22 of this act shall apply to the district, the district's equalized pupil count shall be calculated under 16 V.S.A. § 4010(f), as in effect on June 30, 2016.

* * * Effective Dates * * *

Sec. 38. EFFECTIVE DATES

(a) This section and Secs. 1–5, 9–12, and 14–37 shall take effect on passage.

(b) Secs. 6–8 (speech-language pathologists) shall take effect on January 1, 2018.

(c) Sec. 13 (State-placed students) shall take effect beginning with the 2017–2018 school year.

(Committee vote: 6-0-0)

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Education?, Senator White moved to amend the recommendation of the Committee on Education as follows:

First: By striking out Sec. 6 in its entirety and inserting in lieu thereof:

[Deleted.]

Second: By striking out Sec. 7 in its entirety and inserting in lieu thereof:

[Deleted.]

Third: By striking out Sec. 8 in its entirety and inserting in lieu thereof:

[Deleted.]

Fourth: In Sec. 38 (effective dates), by striking out subsection (b) in its entirety and by relettering the remaining section to be correct.

Thereupon, pending the question, Shall the recommendation of the Committee on Education be amended as proposed by Senator White?, Senator White requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the proposal of amendment of the Committee on Education was agreed to, and third reading of the bill was ordered.

Bill Passed in Concurrence with Proposal of Amendment

H. 497.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to health requirements for animals used in agriculture.

Third Reading Ordered**H. 326.**

Senator Ingram, for the Committee on Health and Welfare, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered**H. 5.**

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to investment of town cemetery funds.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 5384 is amended to read:

§ 5384. PAYMENT TO TREASURER; RECORD; INVESTMENT

(a) Unless otherwise directed by the donor, all ~~moneys~~ monies received by a town for cemetery purposes shall be paid to the town treasurer who shall give a receipt therefor, which shall be recorded in the office of the town clerk in a book kept for that purpose. In such book shall also be stated the amount received from each donor, the time when, and the specific purpose to which the use thereof is appropriated.

(b)(1) All ~~moneys~~ monies so received by the town may be invested and reinvested by the treasurer, with the approval of the ~~selectmen~~ selectboard, by deposit in:

(A) banks chartered by the ~~state~~ State;

(B) ~~or in~~ national banks;

(C) bonds of the United States or of municipalities whose bonds are legal investment for banks chartered by the ~~state~~ State;

(D) ~~or in~~ bonds or notes legally issued in anticipation of taxes by a town, village, or city in this state State, or first mortgages on real estate in Vermont;

(E) ~~or in~~ the shares of an investment company, or an investment trust, ~~which~~ such as a mutual fund, closed-end fund, or unit investment trust, that is registered under the federal Investment Company Act of 1940, as amended, if such ~~mutual investment~~ fund has been in operation for at least ~~10~~ five years and has net assets of at least ~~\$10,000,000.00~~ \$100,000,000.00; or

(F) ~~in~~ shares of a savings and loan association of this state State, or share accounts of a federal savings and loan association with its principal office in this state State, when and to the extent to which the withdrawal or repurchase value of such shares or accounts are insured by the Federal Savings and Loan Insurance Corporation.

(2)(A) However, in ~~towns~~ a town that ~~elect~~ elects trustees of public funds, ~~such cemetery~~ funds shall be invested by ~~such~~ the trustees in any of the securities ~~hereinbefore~~ enumerated in this section, and the income thereof paid to the proper officers as the same falls due.

(B) The Investment income ~~therefrom~~ shall be expended for the purpose and in the manner designated by the donor. The provisions of this section as to future investments shall not require the liquidation or disposition of securities legally acquired and held.

(3) The treasurer, selectboard, or trustees of public funds may delegate management and investment of town cemetery funds to the extent that it is prudent under the terms of the trust or endowment, and in accordance with the Uniform Prudent Management of Institutional Funds Act, 14 V.S.A. § 3415 (delegation of investment functions). An agent exercising a delegated management or investment function may invest cemetery funds only in the securities enumerated in this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered
H. 74.

Senator Sears, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to nonconsensual sexual conduct.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2601a is added to read:

§ 2601a. PROHIBITED CONDUCT

(a) No person shall engage in open and gross lewdness.

(b) A person who violates this section shall:

(1) be imprisoned not more than one year or fined not more than \$300.00, or both, for a first offense; and

(2) be imprisoned not more than two years or fined not more than \$1,000.00, or both, for a second or subsequent offense.

Sec. 2. 13 V.S.A. § 2632 is amended to read:

§ 2632. PROHIBITED ACTS PROSTITUTION

* * *

Sec. 3. 13 V.S.A. § 1030 is amended to read:

§ 1030. VIOLATION OF AN ABUSE PREVENTION ORDER, AN ORDER AGAINST STALKING OR SEXUAL ASSAULT, OR A PROTECTIVE ORDER CONCERNING CONTACT WITH A CHILD

(a) A person who intentionally commits an act prohibited by a court or who fails to perform an act ordered by a court, in violation of an abuse prevention order issued under 15 V.S.A. chapter 21 of Title 15 or 33 V.S.A. chapter 69 of Title 33, a protective order that concerns contact with a child and is issued under 33 V.S.A. chapter 51 of Title 33, or an order against stalking or sexual assault issued under 12 V.S.A. chapter 178 of Title 12, after the person has been served notice of the contents of the order as provided in those chapters; or in violation of a foreign abuse prevention order or an order against stalking or sexual assault issued by a court in any other state, federally recognized Indian tribe, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; shall be

imprisoned not more than one year or fined not more than \$5,000.00, or both. Intent to violate the order is not an element of the crime, however the State must prove the person intentionally committed the act that violated the order.

(b) A person who is convicted of a second or subsequent offense under this section or is convicted of an offense under this section and has previously been convicted of domestic assault under section 1042 of this title, first degree aggravated domestic assault under section 1043 of this title, or second degree aggravated domestic assault under section 1044 of this title shall be imprisoned not more than three years or fined not more than \$25,000.00, or both.

(c) Upon conviction under this section for a violation of an order issued under 15 V.S.A. chapter 21 of Title 15, the court shall, unless the circumstances indicate that it is not appropriate or not available, order the defendant to participate in domestic abuse counseling or a domestic abuse prevention program approved by the ~~department of corrections~~ Department of Corrections. The defendant may at any time request the court to approve an alternative program. The defendant shall pay all or part of the costs of the counseling or program unless the court finds that the defendant is unable to do so.

(d) Upon conviction for a violation of an order issued under 12 V.S.A. chapter 178 of Title 12, the court may order the defendant to participate in mental health counseling or sex offender treatment approved by the ~~department of corrections~~ Department of Corrections. The defendant shall pay all or part of the costs of the counseling unless the court finds that the defendant is unable to do so.

(e) Nothing in this section shall be construed to diminish the inherent authority of the courts to enforce their lawful orders through contempt proceedings.

(f) Prosecution for violation of an abuse prevention order or an order against stalking or sexual assault shall not bar prosecution for any other crime, including any crime that may have been committed at the time of the violation of the order.

Sec. 4. 13 V.S.A. § 3281 is added to read:

§ 3281. SEXUAL ASSAULT SURVIVORS' RIGHTS

(a) Short title. This section may be cited as the "Bill of Rights for Sexual Assault Survivors."

(b) Definition. As used in this section, "sexual assault survivor" means a person who is a victim of an alleged sexual offense.

(c) Survivors' rights. When a sexual assault survivor makes a verbal or written report to a law enforcement officer, emergency department, sexual assault nurse examiner, or victim's advocate of an alleged sexual offense, the recipient of the report shall provide written notification to the survivor that he or she has the following rights:

(1) The right to receive a medical forensic examination and any related toxicology testing at no cost to the survivor in accordance with 32 V.S.A. § 1407, irrespective of whether the survivor reports to or cooperates with law enforcement. If the survivor opts to have a medical forensic examination, he or she shall have the following additional rights:

(A) the right to have the medical forensic examination kit or its probative contents delivered to a forensics laboratory within 72 hours of collection;

(B) the right to have the sexual assault evidence collection kit or its probative contents preserved without charge for the duration of the maximum applicable statute of limitations;

(C) the right to be informed in writing of all policies governing the collection, storage, preservation, and disposal of a sexual assault evidence collection kit;

(D) the right to be informed of a DNA profile match on a kit reported to law enforcement or on a confidential kit, on a toxicology report, or on a medical record documenting a medical forensic examination, if the disclosure would not impede or compromise an ongoing investigation; and

(E) upon written request from the survivor, the right to:

(i) receive written notification from the appropriate official with custody not later than 60 days before the date of the kit's intended destruction or disposal; and

(ii) be granted further preservation of the kit or its probative contents.

(2) The right to consult with a sexual assault advocate.

(3) The right to information concerning the availability of protective orders and policies related to the enforcement of protective orders.

(4) The right to information about the availability of, and eligibility for, victim compensation and restitution.

(5) The right to information about confidentiality.

(d) Notification protocols. The Vermont Network Against Domestic and Sexual Violence and the Sexual Assault Nurse Examiner Program, in consultation with other parties referred to in this section, shall develop protocols and written materials to assist all responsible entities in providing notification to victims.

Sec. 5. 13 V.S.A. § 4501 is amended to read:

§ 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

(a) Prosecutions for aggravated sexual assault, aggravated sexual assault of a child, human trafficking, aggravated human trafficking, murder, arson causing death, and kidnapping may be commenced at any time after the commission of the offense.

(b) Prosecutions for manslaughter, ~~sexual assault~~, lewd and lascivious conduct, ~~sexual exploitation of children under chapter 64 of this title~~, sexual abuse of a vulnerable adult, grand larceny, robbery, burglary, embezzlement, forgery, bribery offenses, false claims, fraud under 33 V.S.A. § 141(d), and felony tax offenses shall be commenced within six years after the commission of the offense, and not after.

(c) Prosecutions for any of the following offenses ~~alleged to have been committed against a child under 18 years of age~~ shall be commenced within 40 years after the commission of the offense, and not after:

(1) sexual assault;

(2) lewd and lascivious conduct alleged to have been committed against a child under 18 years of age;

(3) sexual exploitation of a minor as defined in subsection 3258(c) of this title;

(4) lewd or lascivious conduct with a child; ~~and~~

(5) sexual exploitation of children under chapter 64 of this title; and

(6) manslaughter alleged to have been committed against a child under 18 years of age.

(d) Prosecutions for arson shall be commenced within 11 years after the commission of the offense, and not after.

(e) Prosecutions for other felonies and for misdemeanors shall be commenced within three years after the commission of the offense, and not after.

Sec. 6. 14 V.S.A. § 315 is amended to read:

§ 315. PARENT AND CHILD RELATIONSHIP

(a) For the purpose of intestate succession, an individual is the child of his or her parents, regardless of their marital status, but a parent shall not inherit from a child unless the parent has openly acknowledged the child and not refused to support the child.

(b) The parent and child relationship may be established in parentage proceedings under ~~subchapter 3A of 15 V.S.A. chapter 5 of Title 15,~~ subchapter 3A.

(c) A parent shall not inherit from a child conceived of sexual assault who is the subject of a parental rights and responsibilities order issued pursuant to 15 V.S.A. § 665(f).

Sec. 7. 15 V.S.A. § 665 is amended to read:

§ 665. RIGHTS AND RESPONSIBILITIES ORDER; BEST INTERESTS OF THE CHILD

* * *

(f) The State has a compelling interest in not forcing a victim of sexual assault or sexual exploitation to continue an ongoing relationship with the perpetrator of the abuse. Such continued interaction can have traumatic psychological effects on the victim, making recovery more difficult, and negatively affect the victim's ability to parent and to provide for the best interests of the child. Additionally, the State recognizes that a perpetrator may use the threat of pursuing parental rights and responsibilities to coerce a victim into not reporting or not assisting in the prosecution of the perpetrator for the sexual assault or sexual exploitation, or to harass, intimidate, or manipulate the victim.

(1) The Court may enter an order awarding sole parental rights and responsibilities to a parent and denying all parent-child contact with the other parent if the Court finds by clear and convincing evidence that the nonmoving parent was convicted of sexually assaulting the moving parent and the child was conceived as a result of the sexual assault. As used in this subdivision, sexual assault shall include sexual assault as provided in 13 V.S.A. § 3252(a), (b), (d), and (e), aggravated sexual assault as provided in 13 V.S.A. § 3253, ~~and~~ aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a, lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and similar offenses in other jurisdictions.

~~(A) An order issued in accordance with this subdivision (f)(1) shall be permanent and shall not be subject to modification.~~

~~(B) Upon issuance of a rights and responsibilities order pursuant to this subdivision (f)(1), the Court shall not issue a parent-child contact order and shall terminate any existing parent-child contact order concerning the child and the nonmoving parent.~~

(2) The Court may enter an order awarding sole parental rights and responsibilities to one parent and denying all parent-child contact between the other parent and a child if the Court finds by clear and convincing evidence that the child was conceived as a result of the nonmoving parent sexually assaulting or sexually exploiting the moving parent and the Court finds by a preponderance of the evidence that such an order is in the best interest of the child. A conviction is not required under this subdivision, and the Court may consider other evidence of sexual assault or sexual exploitation in making its determination.

(A) For purposes of this subdivision (f)(2):

(i)(A) sexual assault shall include sexual assault as provided in 13 V.S.A. § 3252, aggravated sexual assault as provided in 13 V.S.A. § 3253, aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a, lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and similar offenses in other jurisdictions; and

(ii)(B) sexual exploitation shall include sexual exploitation of an inmate as provided in 13 V.S.A. § 3257, sexual exploitation of a minor as provided in 13 V.S.A. § 3258, sexual abuse of a vulnerable adult as provided in 13 V.S.A. § 1379, and similar offenses in other jurisdictions.

~~(B) Except as provided in subdivision (f)(2)(C), the Court shall not issue a parent-child contact order in a case in which a parental rights and responsibilities order has been issued pursuant to this subdivision (f)(2) and any existing parent-child contact order concerning the child and the nonmoving parent shall be terminated.~~

~~(C) A party may file a motion for modification of the order only upon a showing of extraordinary, real, substantial, and unanticipated change of circumstances.~~

(3) Issuance of an order pursuant to this subsection shall not affect the right of the custodial parent to seek child support from the noncustodial parent.

(4) Upon issuance of a rights and responsibilities order pursuant to this subsection, the court shall not issue a parent-child contact order and shall terminate any existing parent-child contact order concerning the child and the nonmoving parent. An order issued in accordance with this subdivision shall be permanent and shall not be subject to modification.

Sec. 8. 15 V.S.A. § 1103 is amended to read:

§ 1103. REQUESTS FOR RELIEF

* * *

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

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

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

(2) The court order may include the following:

(A) an order that the defendant refrain from abusing the plaintiff, or his or her children, or both, and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the plaintiff's children in person, by phone, or by mail, or both, in any way, whether directly, indirectly or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication, and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or the plaintiff's children are likely to spend time;

* * *

Sec. 9. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the ~~Court~~ court that the defendant has abused the plaintiff or ~~his or her~~ the plaintiff's children, or both. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on his or her own behalf. Relief under this section shall be limited as follows:

(1) Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff or his or her children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or by a minor child residing in the household;

(B) to refrain from interfering with the plaintiff's personal liberty, or the personal liberty of the plaintiff's children, or both; ~~and~~

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment; and

(D) to refrain from contacting the plaintiff or the plaintiff's children, or both, in any way, whether directly, indirectly or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication.

* * *

Sec. 10. EFFECTIVE DATES

(a) This section and Secs. 1 (prohibited conduct), 6 (parent and child), 7 (rights and responsibilities order; best interests of the child), 8 (request for relief), and 9 (emergency relief) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to domestic and sexual violence.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 308.

Senator White, for the Committee on Judiciary, to which was referred House bill entitled:

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

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 168 is added to read:

§ 168. RACIAL DISPARITIES IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEM ADVISORY PANEL

(a) The Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel is established. The Panel shall be organized and have the duties and responsibilities as provided in this section. The Panel shall be organized within the Office of the Attorney General and shall consult with the Vermont Human Rights Commission, the Vermont chapter of the ACLU, the Vermont Police Association, the Vermont Sheriffs' Association, the Vermont Association of Chiefs of Police, and others.

(b) The Panel shall comprise the following 13 members:

(1) five members, drawn from diverse backgrounds to represent the interests of communities of color throughout the State, who have had experience working to implement racial justice reform, appointed by the Attorney General;

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

(3) the Attorney General or designee;

(4) the Defender General or designee;

(5) the Executive Director of the State's Attorneys and Sheriffs or designee;

(6) the Chief Superior Judge or designee;

(7) the Commissioner of Corrections or designee;

(8) the Commissioner of Public Safety or designee; and

(9) the Commissioner for Children and Families.

(c) The members of the Panel appointed under subdivision (b)(1) of this section shall serve staggered four-year terms. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of subsection (b) of this section. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term. Members of the Panel shall be eligible for reappointment. Members of the Panel shall serve no more than two consecutive terms in any capacity.

(d) Members of the Panel shall elect biennially by majority vote the Chair of the Panel. Members of the Panel who are not State employees or whose participation is not supported through their employment or association shall

receive per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, to be provided by the Office of the Attorney General. The Office of the Attorney General shall provide the Panel with administrative and professional support.

(e) A majority of the members of the Panel shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

(f) The Panel shall review and provide recommendations to address systemic racial disparities in statewide systems of criminal and juvenile justice, including:

(1) continually reviewing the data collected pursuant to 20 V.S.A. § 2366 to measure State progress toward a fair and impartial system of law enforcement;

(2) providing recommendations to the Criminal Justice Training Council and the Vermont Bar Association, based on the latest social science research and best practices in law enforcement and criminal and juvenile justice, on data collection and model trainings and policies for law enforcement, judges, correctional officers, and attorneys, including prosecutors and public defenders, to recognize and address implicit bias;

(3) providing recommendations to the Criminal Justice Training Council, based on the latest social science research and best practices in law enforcement, on data collection and a model training and policy on de-escalation and the use of force in the criminal and juvenile justice system;

(4) educating and engaging with communities, businesses, educational institutions, State and local governments, and the general public about the nature and scope of racial discrimination in the criminal and juvenile justice system;

(5) monitoring progress on the recommendations from the 2016 report of the Attorney General's Working Group on Law Enforcement Community Interactions; and

(6) on or before January 15, 2018, and biennially thereafter, reporting to the General Assembly, and providing as a part of that report recommendations to address systemic implicit bias in Vermont's criminal and juvenile justice system, including:

(A) how to institute a public complaint process to address perceived implicit bias across all systems of State government;

(B) whether and how to prohibit racial profiling, including implementing any associated penalties; and

(C) whether to expand law enforcement race data collection practices to include data on nontraffic stops by law enforcement.

Sec. 2. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(e)(1) The criteria for all minimum training standards under this section shall include anti-bias training approved by the Vermont Criminal Justice Training Council and training on the State, county, or municipal law enforcement agency's fair and impartial policing policy, adopted pursuant to subsection 2366(a) of this title.

* * *

(4) The Criminal Justice Training Council shall, on an annual basis, report to the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel regarding:

(A) the adoption and implementation of the Panel's recommended data collection methods and trainings and policies pursuant to 3 V.S.A. § 168(f)(2) and (3);

(B) the incorporation of implicit bias training into the requirements of basic training pursuant to this subsection; and

(C) the implementation of all trainings as required by this subsection.

Sec. 3. SECRETARY OF ADMINISTRATION; PROPOSAL

The Secretary of Administration shall develop a proposal to identify and address racial disparities within the State systems of education, labor and employment, access to housing and health care, and economic development. The Secretary shall report on the proposal to the House and Senate Committees on Judiciary on or before January 15, 2018.

Sec. 4. 20 V.S.A. § 2366(f) is added to read:

(f) Nothing in this section is intended to prohibit or impede any public agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and 1644. To the extent any State or local law enforcement policy or practice conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, that policy or practice is, to the extent of the conflict, abolished.

Sec. 5. CRIMINAL JUSTICE TRAINING COUNCIL; FAIR AND IMPARTIAL POLICING POLICY

(a) On or before October 1, 2017, the Criminal Justice Training Council, in consultation with the Attorney General, shall review and modify the model fair

and impartial policing policy to the extent necessary to bring the policy into compliance with 8 U.S.C. §§ 1373 and 1644.

(b) On or before January 1, 2018, the Criminal Justice Training Council, in consultation with stakeholders, including the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and Migrant Justice, shall update its model fair and impartial policing policy to provide one cohesive model policy for law enforcement agencies and constables to adopt as a part of the agency's or constable's own fair and impartial policing policy pursuant to 20 V.S.A. § 2366(a)(1).

Sec. 6. 20 V.S.A. § 2366 is amended to read:

§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL
POLICING POLICY; RACE DATA COLLECTION

(a)(1) On or before January 1, 2016, the Criminal Justice Training Council, in consultation with stakeholders, including the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and Migrant Justice, shall create a model fair and impartial policing policy. On or before July 1, 2016 March 1, 2018, every State, local, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall adopt a fair and impartial policing policy that includes, at a minimum, the elements each component of the Criminal Justice Training Council Council's model fair and impartial policing policy.

(2) On or before October 1, 2018, and every even-numbered year thereafter, the Criminal Justice Training Council, in consultation with others, including the Attorney General and the Human Rights Commission, shall review and, if necessary, update the model fair and impartial policing policy.

(b) To encourage consistent fair and impartial policing practices statewide, the Criminal Justice Training Council, in consultation with the Office of the Attorney General, shall review the policies of law enforcement agencies and constables required to adopt a policy pursuant to subsection (a) of this section, to ensure those policies establish each component of the model policy on or before April 15, 2018. If a the Council finds that a policy does not meet each component of the model policy, it shall work with the law enforcement agency or constable that is required to adopt a policy pursuant to subsection (a) of this section to bring the policy into compliance. If, after consultation with its attorney or with the Council, or with both, the law enforcement agency or constable fails to do so on or before July 1, 2016 adopt a policy that meets each component of the model policy, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy issued by the Criminal Justice Training Council.

~~(c) On or before September 15, 2014, and annually thereafter~~ Annually, as part of their annual training report to the Council, every State, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall report to the Council whether the agency or officer has adopted a fair and impartial policing policy in accordance with subsections (a) and (b) of this section. The Criminal Justice Training Council shall determine, as part of the Council's annual certification of training requirements, whether current officers have received training on fair and impartial policing as required by 20 V.S.A. § 2358(e).

~~(d) On or before October 15, 2014, and annually thereafter~~ Annually on April 1, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary regarding which departments and officers have adopted a fair and impartial policing policy, and whether officers have received training on fair and impartial policing.

* * *

Sec. 7. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 6 (law enforcement agencies; fair and impartial policing policy; race data collection) shall take effect on March 1, 2018.

And that after passage the title of the bill be amended to read:

An act relating to the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

In Sec. 1, 3 V.S.A. § 168, subdivision (d), after the last sentence, by inserting the following: The Panel may meet up to ten times per year.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Judiciary was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Judiciary, as amended, was agreed to and third reading of the bill was ordered on a roll call Yeas 29, Nays 0.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Balint, Baruth, Benning, Branagan, Bray, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Brooks.

Proposal of Amendment; Third Reading Ordered

H. 508.

Senator Lyons, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to building resilience for individuals experiencing adverse childhood experiences.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

(a) It is the belief of the General Assembly that controlling health care costs requires consideration of population health, particularly adverse childhood experiences (ACEs) and adverse family experiences (AFEs).

(b) The ACE questionnaire contains ten categories of questions for adults. It is used to measure an adult's exposure to toxic stress in childhood. Based on a respondent's answers to the questionnaire, an ACE score is calculated, which is the total number of ACE categories reported as having been experienced by a respondent. ACEs include physical, emotional, and sexual abuse; neglect; food and financial insecurity; living with a person experiencing mental illness or substance use disorder, or both; experiencing or witnessing domestic violence; and having divorced parents or an incarcerated parent.

(c) In a 1998 article entitled “Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults,” published in the *American Journal of Preventive Medicine*, evidence was cited of a “strong graded relationship between the breadth of exposure to abuse or household dysfunction during childhood and multiple risk factors for several of the leading causes of death in adults.”

(d) Physical, psychological, and emotional trauma during childhood may result in damage to multiple brain structures and functions.

(e) The greater the ACE score of a respondent, the greater the risk for many health conditions and high-risk behaviors, including alcoholism and alcohol abuse, chronic obstructive pulmonary disease, depression, obesity, illicit drug use, ischemic heart disease, liver disease, intimate-partner violence, multiple sexual partners, sexually transmitted diseases, smoking, suicide attempts, unintended pregnancies, and others.

(f) ACEs are implicated in the ten leading causes of death in the United States, and with an ACE score of six or higher, an individual has a 20-year reduction in life expectancy. In addition, the higher the ACE score, the greater the likelihood of later problems with employment and economic stability, including bankruptcy and homelessness.

(g) AFEs are common in Vermont. One in eight Vermont children has experienced three or more AFEs, the most common being divorced or separated parents, food and housing insecurity, and having lived with someone with a substance use disorder or mental health condition. Children with three or more AFEs have higher odds of failing to engage and flourish in school.

(h) The earlier in life an intervention occurs for an individual who has experienced ACEs or AFEs, the more likely that intervention is to be successful.

(i) ACEs and AFEs can be prevented when a multigenerational approach is employed to interrupt the cycle of ACEs and AFEs within a family, including both prevention and treatment throughout an individual’s lifespan.

(j) It is the belief of the General Assembly that people who have experienced adverse childhood and family experiences can build resilience and can succeed in leading happy, healthy lives.

Sec. 2. 33 V.S.A. chapter 34 is added to read:

CHAPTER 34. PROMOTION OF CHILD AND FAMILY RESILIENCE

§ 3351. PRINCIPLES FOR VERMONT’S TRAUMA-INFORMED
SYSTEM OF CARE

The General Assembly, to further the significant progress made in Vermont with regard to the prevention, screening, and treatment for adverse childhood and family experiences, adopts the following principles with regard to strengthening Vermont's response to trauma and toxic stress during childhood:

(1) Childhood and family trauma affects all aspects of society. Each of Vermont's systems addressing trauma, particularly social services; health care, including mental health; education; child care; and the justice system, shall collaborate to address the causes and symptoms of childhood and family trauma and to build resilience.

(2) Current efforts to address childhood trauma in Vermont shall be recognized, coordinated, and strengthened.

(3) Addressing trauma in Vermont requires building resilience in those individuals already affected and preventing childhood trauma within the next generation.

(4) Early childhood adversity and adverse family events are common and can be prevented. When adversity is not prevented, early intervention is essential to ameliorate the impacts of adversity. A statewide, community-based, public health approach is necessary to effectively address what is a chronic public health disorder. To that end, Vermont shall implement an overarching public health model based on neurobiology, resilience, epigenetics, and the science of adverse childhood and family experiences with regard to toxic stress. This model shall include training for local leaders to facilitate a cultural change around the prevention and treatment of childhood trauma.

(5) Addressing health in all policies shall be a priority of the Agency of Human Services in order to foster flourishing, self-healing communities.

(6) Service systems shall be integrated at the local and regional levels to maximize resources and simplify how systems respond to individual and family needs. All programs and services shall be evidence-informed and research-based, adhering to best practices in trauma treatment.

§ 3352. DEFINITIONS

As used in this chapter:

(1) "Adverse childhood experiences" or "ACEs" means potentially traumatic events that occur during childhood and can have negative, lasting effects on the adult's health and well-being.

(2) "Adverse family experiences" or "AFEs" means potentially traumatic events experienced by a child in his or her home or community that can have negative, lasting effects on the child's health and well-being.

(3) “Social determinants of health” means the conditions in which people are born, grow, live, work, and age, including socioeconomic status, education, the physical environment, employment, social support networks, and access to health care.

(4) “Trauma-informed” means a type of program, organization, or system that realizes the widespread impact of trauma and understands there are potential paths for recovery; recognizes the signs and symptoms of trauma in clients, families, staff, and others involved in a system; responds by fully integrating knowledge about trauma into policies, procedures, and practices; and seeks to actively resist retraumatization.

(5) “Toxic stress” means strong, frequent, or prolonged experience of adversity without adequate support.

§ 3353. DIRECTING TRAUMA-INFORMED SYSTEMS

(a) The Secretary of Human Services shall ensure that one or more persons within the Agency are responsible for coordinating the Agency’s response to adverse childhood and family experiences and collaborating with community partners to build trauma-informed systems, including:

(1) coordinating the Agency’s childhood trauma prevention, screening, and treatment efforts with any similar efforts occurring elsewhere in State government;

(2) disseminating training materials for early child care and learning professionals, in conjunction with the Agency of Education, regarding the identification of students exposed to adverse childhood and family experiences and of strategies for referring families to community health teams and primary care medical homes;

(3) developing and implementing programming modeled after Vermont’s Resilience Beyond Incarceration and Kids-A-Part programs to address and reduce trauma and associated health risks to children of incarcerated parents;

(4) developing a plan that builds on work completed pursuant to 2015 Acts and Resolves No. 46, especially with respect to positive behavior intervention and supports (PBIS) and full-service and trauma-informed schools, in conjunction with the Secretary of Education and other stakeholders, for creating a trauma-informed school system throughout Vermont;

(5) developing a plan that builds on work being done by early child care and learning professionals for children ages 0–5 regarding collaboration with health care professionals in medical homes, including assisting in the screening and surveillance of young children; and

(6) support efforts to develop a framework for outreach and partnership with local community groups to build flourishing communities.

(b) The person or persons directing the Agency's work related to adverse childhood and family experiences, in consultation with the Child and Family Trauma Committee established pursuant to section 3354 of this chapter, shall provide advice and support to the Secretary and to each of the Agency's departments in addressing the prevention and treatment of adverse childhood and family experiences and building of trauma-informed systems. This person or persons shall also support the Secretary and departments in connecting communities and organizations with the appropriate resources for recovery when traumatic events occur.

§ 3354. CHILD AND FAMILY TRAUMA COMMITTEE

(a) Creation. There is created the Child and Family Trauma Committee within the Agency of Human Services for the purpose of providing guidance to the Agency in its efforts to mitigate childhood trauma and build resiliency in accordance with the following principles:

(1) prioritization of a multi-generational approach to support health and mitigate adversity;

(2) recognition of the importance of actively building skills, including executive functioning and self-regulation, when designing strategies to promote the healthy development of young children, adolescents, and adults;

(3) use of approaches that are centered around early childhood, including prenatal, and that focus on building adult core capabilities; and

(4) emphasis on the integration of best practice, evidence-informed practice, and evaluation to ensure accountability and to provide evidence of effectiveness and efficiency.

(b)(1) Membership. The Committee shall be composed of the following members:

(A) the person or persons directing the Agency's work related to adverse childhood and family experiences;

(B) the Commissioner of Mental Health or designee;

(C) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(D) the Commissioner of Corrections or designee;

(E) the Commissioner of Health or designee;

(F) the Commissioner of Vermont Health Access or designee;

(G) a representative of the Department for Children and Families' Child Development Division;

(H) a representative of the Department for Children and Families' Economic Services Division;

(I) a representative of the Department for Children and Families' Family Services Division;

(J) a field services director within the Agency, appointed by the Secretary; and

(K) the Secretary of Education or designee.

(2) The Secretary of Human Services shall invite at least the following representatives to serve as members of the Committee:

(A) a representative of the Vermont Network Against Domestic and Sexual Violence;

(B) a representative of the Vermont Adoption Consortium;

(C) a representative of the Vermont Federation of Families for Children's Mental Health;

(D) a representative of Vermont Care Partners;

(E) a mental health professional, as defined in 18 V.S.A. § 7101, or a social worker, licensed pursuant to 26 V.S.A. chapter 61;

(F) a representative of the parent-child center network;

(G) a representative of Vermont Afterschool, Inc.;

(H) a representative of Building Bright Futures;

(I) a representative of Vermont's "Help Me Grow" Resource and Referral Service Program;

(J) a representative of trauma survivors or of family members of trauma survivors;

(K) a public school teacher, administrator, guidance counselor, or school nurse with knowledge about adverse childhood and family experiences;

(L) a private practice physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a private practice nurse licensed pursuant to 26 V.S.A. chapter 38, or a private practice physician assistant licensed pursuant to 26 V.S.A. chapter 31;

(M) a representative of Prevent Child Abuse Vermont; and

(N) a representative of the field of restorative justice.

(c) Powers and duties. In light of current research and the fiscal environment, the Committee shall analyze existing resources related to building resilience in early childhood and advise the Agency on appropriate structures for advancing the most evidence-informed and cost-effective approaches to serve children experiencing trauma.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Human Services.

(e) Meetings.

(1) Meetings shall be held at the call of the Secretary of Human Services, but not more than 12 times annually.

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

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

Sec. 3. AGENCY APPOINTMENT RELATED TO ADVERSE CHILDHOOD AND FAMILY EXPERIENCE WORK

On or before September 1, 2017, the Secretary of Human Services shall inform the chairs of the Senate Committee on Health and Welfare and House Committees on Health Care and on Human Services as to whether the Agency was able to reallocate a position within the Agency for the purpose of directing the Agency's work pursuant to 18 V.S.A. § 3353 or whether some other arrangement was implemented.

Sec. 4. ADVERSE CHILDHOOD AND FAMILY EXPERIENCES; PRESENTATION

On or before February 1, 2018, the person or persons directing the Agency's work related to adverse childhood and family experiences shall present to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare findings and recommendations related to each of the following, as well as proposed legislative language where appropriate:

(1) identification of existing home visiting services and populations eligible for these services, as well as a proposal for expanding home visits to all Vermont families with a newborn infant by addressing both the financial and strategic implications of universal home visiting;

(2) identification of all existing grants administered by the Agency of Human Services for professional development related to trauma-informed training;

(3) determination of what policies, if any, the Agency of Human Services should adopt regarding the use of evidence-informed grants with community partners that are under contract with the Agency to provide trauma-informed services;

(4) development of a proposal for measuring the outcomes of each of the initiatives created by this act, including specific quantifiable data and the amount of any savings that could be realized by the prevention and mitigation of adverse childhood and family experiences; and

(5) identification of measures to assess the long-term impacts of adverse childhood and family experiences on Vermonters and to assess the effectiveness of the initiatives created by this act in interrupting the effects of adverse childhood and family experiences.

Sec. 5. INVENTORY AND INTERIM REPORT

(a) The person or persons directing the Agency's work related to adverse childhood and family experience pursuant to 33 V.S.A. § 3353, in consultation with Vermont's "Help Me Grow" Resource and Referral Service Program, shall create an inventory of available State and community resources, program capabilities, and coordination capacity in each service area of the State with regard to the following:

(1) programs or providers currently screening patients for adverse childhood and family experiences or conducting another type of trauma assessment, including VCHIP's work integrating trauma-informed services in the delivery of health care to children and the screening and surveillance work occurring in early learning programs;

(2) regional capacity to establish integrated prevention, screening, and treatment programming and apply uniformly the Department for Children and Families' Strengthening Families Framework among service providers;

(3) availability of referral treatment programs for families and individuals who have experienced childhood trauma or are experiencing childhood trauma and whether telemedicine may be used to address shortages in service, if any; and

(4) identification of any regional or programmatic gaps in services or inconsistencies in the use of adverse childhood and family experiences screening tools.

(b) On or before November 1, 2017, the person or persons directing the Agency's work related to adverse childhood and family experiences shall submit the inventory created pursuant to subsection (a) of this section and any preliminary recommendations related to Sec. 4 of this act to the Senate

Committee on Health and Welfare and House Committees on Health Care and on Human Services.

Sec. 6. ADVERSE CHILDHOOD AND FAMILY EXPERIENCES;
RESPONSE PLAN

On or before January 15, 2019, the person or persons directing the Agency's work related to adverse childhood and family experiences pursuant to 33 V.S.A. § 3353, shall present a plan to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare regarding the integration of evidence-informed and family-focused prevention, intervention, treatment, and recovery services for individuals affected by adverse childhood and family experiences. The plan shall address the coordination of services throughout the Agency and shall propose mechanisms for improving and engaging community providers in the systematic prevention of trauma, as well as screening, case detection, and care of individuals affected by adverse childhood and family experiences.

Sec. 7. 16 V.S.A. chapter 31, subchapter 4 is added to read:

Subchapter 4. School Nurses

§ 1441. FAMILY WELLNESS COACH TRAINING

A school nurse employed by a primary or secondary school is encouraged to participate in a training program, such as trauma-informed programming approved by the Department of Health in consultation with the Department of Mental Health, which may include programming offered by Prevent Child Abuse Vermont. If a school nurse has completed a training program, he or she may provide family wellness coaching to those families with a student attending the school where the school nurse is employed.

Sec. 8. 18 V.S.A. § 705 is amended to read:

§ 705. COMMUNITY HEALTH TEAMS

* * *

(d) The Director shall implement a plan to enable community health teams to work with school nurses in a manner that enables a community health team to serve as:

(1) an educational resource for issues that may arise during the course of the school nurse's practice; and

(2) a referral resource for services available to students and families outside an educational institution in coordination with the primary care medical home.

Sec. 9. 18 V.S.A. § 710 is added to read:

§ 710. ADVERSE CHILDHOOD AND FAMILY EXPERIENCE
SCREENING TOOL

The Director of the Blueprint for Health, in coordination with the Women's Health Initiative, and in consultation with the person or persons directing the Agency of Human Service's work related to adverse childhood and family experiences pursuant to 18 V.S.A. § 3353, shall work with those health insurance plans that participate in Blueprint for Health payments to plan for an increase in the per-member per-month payments to primary care and obstetric practices for the purpose of incentivizing use of a voluntary evidence-informed screening tool. In addition, the Director of the Blueprint for Health shall work with these health insurers to plan for an increase in capacity payments to the community health teams for the purpose of providing trauma-informed care to individuals who screen positive for adverse childhood and family experiences.

Sec. 10. RECOMMENDATIONS RELATED TO BLUEPRINT FOR
HEALTH INCENTIVES

As part of the report due pursuant to 18 V.S.A. § 709, the Director of the Blueprint for Health shall submit any recommendations regarding the design of adverse childhood and family experience screening incentives required pursuant to 18 V.S.A. § 710.

Sec. 11. HOME VISITING REFERRALS

The person or persons directing the Agency of Human Services' work related to adverse childhood and family experiences pursuant to 18 V.S.A. § 3353 shall coordinate with the Director of the Blueprint for Health and the Women's Health Initiative to ensure all obstetric, midwifery, pediatric, naturopathic, and family medicine and internal medicine primary care practices participating in the Blueprint for Health receive information about regional home visiting services for the purpose of referring patients to appropriate services.

Sec. 12. GRANTS TO COMMUNITY PARTNERS

For the purpose of interrupting the widespread, multigenerational effects of adverse childhood and family experiences and their subsequent severe, related health problems, the Agency shall ensure that grants to its community partners related to children and families strive toward accountability and community resilience.

* * * Training and Coordination * * *

Sec. 13. CURRICULUM; UNIVERSITY OF VERMONT'S COLLEGE OF MEDICINE AND COLLEGE OF NURSING AND HEALTH SCIENCES

The General Assembly recommends that the University of Vermont's College of Medicine and College of Nursing and Health Sciences expressly include information in their curricula pertaining to adverse childhood and family experiences and their impact on short- and long-term physical and mental health outcomes.

* * * Effective Date * * *

Sec. 14. 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 building resilience for individuals experiencing adverse childhood and family experiences.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Health and Welfare.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Joint Resolution Adopted in Concurrence**J.R.H. 7.**

Joint House resolution entitled:

Joint resolution authorizing the Green Mountain Boys State educational program to use the State House.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

Committees of Conference Appointed**H. 42.**

An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Collamore
Senator Ayer
Senator Pearson

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 171.

An act relating to expungement.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Nitka
Senator Sears
Senator Benning

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 494.

An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Mazza
Senator Westman
Senator Degree

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Message from the House No. 49

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 150. An act relating to parole eligibility.

In the passage of which the concurrence of the Senate is requested.

The House has considered a bill originating in the Senate of the following title:

S. 50. An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 31. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Mazza, the Senate adjourned until nine o'clock in the morning.