

Senate Calendar

FRIDAY, MAY 10, 2024

SENATE CONVENES AT: 10:00 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

UNFINISHED BUSINESS OF MAY 9, 2024

Second Reading

Favorable with Proposal of Amendment

H. 878 An act relating to miscellaneous judiciary procedures	
Judiciary Report - Sen. Sears	4723
Finance Report - Sen. Cummings	4759
Amendment - Sen. Sears	4760
Amendment - Sen. Sears	4761
Amendment - Sens. Vyhovsky, et al	4761
Amendment - Sen. Vyhovksy	4762

Report of Committee of Conference

H. 883 An act relating to making appropriations for the support of government.....	4763
---	------

NEW BUSINESS

Third Reading

H. 612 An act relating to miscellaneous cannabis amendments.....	4763
H. 875 An act relating to the State Ethics Commission and the State Code of Ethics.....	4763

House Proposals of Amendment

S. 114 An act relating to the establishment of the Psychedelic Therapy Advisory Working Group.....	4763
S. 167 An act relating to miscellaneous amendments to education law.....	4765
S. 183 An act relating to reenvisioning the Agency of Human Services....	4776
S. 192 An act relating to forensic facility admissions criteria and processes.....	4778
Amendment - Sen. Lyons, et al	4802

S. 195 An act relating to how a defendant’s criminal record is considered in imposing conditions of release.....	4803
S. 254 An act relating to including rechargeable batteries and battery-containing products under the State battery stewardship program.....	4818
S. 259 An act relating to climate change cost recovery.....	4820
S. 302 An act relating to public health outreach programs regarding dementia risk.....	4821
S. 305 An act relating to miscellaneous changes related to the Public Utility Commission.....	4822

House Proposal of Amendment to Senate Proposal of Amendment

H. 655 An act relating to qualifying offenses for sealing criminal history records and access to sealed criminal history records.....	4839
--	------

Report of Committee of Conference

S. 309 An act relating to miscellaneous changes to laws related to the Department of Motor Vehicles, motor vehicles, and vessels.....	4840
--	------

NOTICE CALENDAR

Second Reading

Favorable

H. 885 An act relating to approval of an amendment to the charter of the Town of Berlin	
Government Operations Report - Sen. Watson	4871
Finance Report - Sen. Cummings	4872

Favorable with Proposal of Amendment

H. 622 An act relating to emergency medical services	
Health and Welfare Report - Sen. Williams	4872
Government Operations Report - Sen. Hardy	4872
Finance Report - Sen. Chittenden	4873
Appropriations Report - Sen. Lyons	4873
H. 876 An act relating to miscellaneous amendments to the corrections laws	
Judiciary Report - Sen. Sears	4873
Appropriations Report - Sen. Sears	4882
Amendment - Sen. Sears	4883

House Proposals of Amendment

- S. 55** An act relating to authorizing public bodies to meet electronically under Vermont’s Open Meeting Law..... 4883
- S. 220** An act relating to Vermont’s public libraries.....4892
- S. 253** An act relating to building energy codes..... 4897

House Proposals of Amendment to Senate Proposals of Amendment

- H. 121** An act relating to enhancing consumer privacy..... 4899
- H. 687** An act relating to community resilience and biodiversity protection through land use..... 4953

Report of Committee of Conference

- H. 563** An act relating to criminal motor vehicle offenses involving unlawful trespass, theft, or unauthorized operation..... 4970

ORDERED TO LIE

- S. 94** An act relating to the City of Barre tax increment financing district.4972

CONCURRENT RESOLUTIONS FOR ACTION

- S.C.R. 16 - 17 and 19** (For text of resolutions, see Addendum to Senate Calendar for May 9, 2024)4973
- H.C.R. 247 - 260** (For text of resolutions, see Addendum to House Calendar for May 9, 2024)4973

ORDERS OF THE DAY

ACTION CALENDAR

UNFINISHED BUSINESS OF THURSDAY, MAY 9, 2024

Second Reading

Favorable with Proposal of Amendment

H. 878.

An act relating to miscellaneous judiciary procedures.

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

The Committee recommends 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. 4 V.S.A. § 41 is added to read:

§ 41. COURT SECURITY OFFICERS

(a) Authorization. The Court Administrator shall define the scope of duties for Judiciary-employed Court Security Officers. The Court Administrator shall have direct authority over Judiciary-employed Court Security Officers and may authorize them to perform judicial security officer functions necessary for the performance of their duties.

(b) Training. The Court Administrator shall develop a training program pursuant to appropriate training standards to perform judicial security officer functions. The Court Administrator shall establish a use of force policy based on State standards.

(c) Training; equipment. At the direction of the Court Administrator and with the approval of the Court Security and Safety Program Manager, Judiciary-employed Court Security Officers shall be provided with training and equipment necessary for the performance of their duties. Equipment provided pursuant to this subsection shall remain the property of the Judiciary.

(d) Coordination of Judiciary security. Judiciary-employed Court Security Officers shall provide security at court properties and at other court-related functions for the Vermont Judiciary at the direction of the Court Administrator.

(e) Construction. This section shall not be construed to limit the Court Administrator's authority to hire additional court security personnel, including private security guards and County Sheriffs.

Sec. 2. 4 V.S.A. § 355 is amended to read:

§ 355. DISQUALIFICATION OR DISABILITY OF JUDGE

When a Probate judge is incapacitated for the duties of office by absence, removal from the district, resignation, sickness, death, or otherwise or if the judge or the judge's spouse or child is heir or legatee under a will filed in the judge's district, or if the judge is executor or administrator of the estate of a deceased person in his or her the judge's district, or is interested as a creditor or otherwise in a question to be decided by the court, ~~he or she~~ the judge shall not act as judge. ~~The judge's duties shall be performed by a Superior judge assigned by the presiding judge of the unit.~~

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

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

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

* * *

(4) Violations of 7 V.S.A. § ~~4005(a)~~ 1005, relating to possession of tobacco products by a person under 21 years of age.

* * *

Sec. 4. 12 V.S.A. § 1913(b) is amended to read:

(b) ~~Authentication, admissibility, and presumptions.~~

(1) A digital record electronically registered in a blockchain shall be self-authenticating pursuant to Vermont Rule of Evidence 902, if it is accompanied by a written declaration of a qualified person, made under oath, stating the qualification of the person to make the certification and:

(A) the date and time the record entered the blockchain;

(B) the date and time the record was received from the blockchain;

(C) that the record was maintained in the blockchain as a regular conducted activity; and

(D) that the record was made by the regularly conducted activity as a regular practice.

* * *

Sec. 5. 12 V.S.A. § 3087 is amended to read:

§ 3087. ~~RECOGNIZANCE FOR TRUSTEE'S COSTS~~

~~The plaintiff in a trustee process shall give security for costs to the trustee by way of recognizance by some person other than the plaintiff. The security shall be in the sum of \$50.00 for a summons returnable to a Superior Court. If trustee process issues without a minute of the recognizance, with the name of the surety and the sum in which he or she is bound, signed by the clerk thereon, the trustee shall be discharged. [Repealed.]~~

Sec. 6. 13 V.S.A. § 3281 is amended 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~~ the survivor 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~~ the survivor 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) the right to be informed of the status and location of the sexual assault evidence collection kit; and

(F) 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. 7. 13 V.S.A. § 3401 is amended to read:

§ 3401. DEFINITION AND PUNISHMENT OF TREASON

A person owing allegiance to this State, who levies war or conspires to levy war against the same, or adheres to the enemies thereof, giving them aid and comfort, within the State or elsewhere, shall be guilty of treason against this State and shall ~~suffer the punishment of death~~ be imprisoned for not less than 25 years with a maximum term of life and, in addition, may be fined not more than \$50,000.00.

Sec. 8. REPEALS

The following sections are repealed: 13 V.S.A. § 7101 (sentence and warrant); 13 V.S.A. § 7102 (pardon); 13 V.S.A. § 7103 (place of execution); 13 V.S.A. § 7104 (manner of confinement); 13 V.S.A. § 7105 (persons present

at execution); 13 V.S.A. § 7106 (manner of execution); and 13 V.S.A. § 7107 (returns of Commissioner).

Sec. 9. 13 V.S.A. § 4056 is amended to read:

§ 4056. SERVICE

(a) A petition, ex parte temporary order, or final order issued under this subchapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service, and shall deliver a copy to the holding station.

(b) A respondent who attends a hearing held under section 4053, 4054, or 4055 of this title at which a temporary or final order under this subchapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A respondent notified by the court on the record shall be required to adhere immediately to the provisions of the order. ~~However, even when the court has previously notified the respondent of the order, the court shall transmit the order for additional service by a law enforcement agency. The clerk shall mail a copy of the order to the respondent at the respondent's last known address.~~

* * *

Sec. 10. 13 V.S.A. § 4814 is amended to read:

§ 4814. ORDER FOR EXAMINATION OF COMPETENCY

* * *

(d) Notwithstanding any other provision of law, an examination ordered pursuant to subsection (a) of this section may be conducted by a doctoral-level psychologist trained in forensic psychology and licensed under 26 V.S.A. chapter 55. ~~This subsection shall be repealed on July 1, 2024.~~

* * *

Sec. 11. 13 V.S.A. § 4816 is amended to read:

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

* * *

(e) The relevant portion of a psychiatrist's report or of a report conducted pursuant to subsection 4814(d) of this title by a doctoral-level psychologist trained in forensic psychology shall be admitted into evidence as an exhibit on the issue of the person's mental competency to stand trial and the opinion shall

be conclusive on the issue if agreed to by the parties and if found by the court to be relevant and probative on the issue.

(f) Introduction of a report under subsection ~~(d)~~(e) of this section shall not preclude either party or the court from calling the psychiatrist or psychologist who wrote the report as a witness or from calling witnesses or introducing other relevant evidence. Any witness called by either party on the issue of the defendant's competency shall be at the State's expense, or, if called by the court, at the court's expense.

Sec. 12. 13 V.S.A. § 7282 is amended to read:

§ 7282. SURCHARGE

(a) In addition to any penalty or fine imposed by the court for a criminal offense or any civil penalty imposed by the Judicial Bureau for a traffic violation, including any violation of a fish and wildlife statute or regulation, violation of a motor vehicle statute, or violation of any local ordinance relating to the operation of a motor vehicle, except violations relating to seat belts and child restraints and ordinances relating to parking violations, the clerk of the court or Judicial Bureau shall levy an additional surcharge of:

* * *

(8)(A) For any offense or violation committed after June 30, 2006, but before July 1, 2008, \$26.00, of which \$18.75 shall be deposited in the Victims Compensation Special Fund.

(B) For any offense or violation committed after June 30, 2008, but before July 1, 2009, \$36.00, of which \$28.75 shall be deposited in the ~~Victims'~~ Victims Compensation Special Fund.

(C) For any offense or violation committed after June 30, 2009, but before July 1, 2013, \$41.00, of which ~~\$27.50~~ \$23.75 shall be deposited in the Victims Compensation Special Fund created by section 5359 of this title, and of which ~~\$13.50~~ \$10.00 shall be deposited in the Domestic and Sexual Violence Special Fund created by section 5360 of this title.

(D) For any offense or violation committed after June 30, 2013, but before July 1, 2023, \$47.00, of which ~~\$33.50~~ \$29.75 shall be deposited in the Victims Compensation Special Fund created by section 5359 of this title, and of which ~~\$13.50~~ \$10.00 shall be deposited in the Domestic and Sexual Violence Special Fund created by section 5360 of this title.

(E) For any offense or violation committed after June 30, 2023, \$47.00, of which \$33.50 shall be deposited in the Victims Compensation Special Fund created by section 5359 of this title, and of which \$13.50 shall be

deposited in the Domestic and Sexual Violence Special Fund created by section 5360 of this title.

* * *

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

Sec. 13. 13 V.S.A. § 7554c(e)(3) is amended to read:

(3) All records of information obtained during risk assessment or needs screening shall be stored in a manner making them accessible only to the Director of Pretrial Services and pretrial service coordinators for a period of three years, after which the records shall be maintained as required by ~~sections 117 and 218 of this title~~ 3 V.S.A. §§ 117 and 218 and any other State law. The Director of Pretrial Services shall be responsible for the destruction of records when ordered by the court.

Sec. 14. 14 V.S.A. § 4020 is amended to read:

§ 4020. LIABILITY FOR REFUSAL TO ACCEPT ACKNOWLEDGED
~~STATUTORY FORM POWER OF ATTORNEY~~

(a) ~~As used in this section, “statutory form power of attorney” means a power of attorney substantially in the form provided in section 4051 or 4052 of this title or that meets the requirements for a military power of attorney pursuant to 10 U.S.C. § 1044b, as amended.~~

(~~b~~) Except as otherwise provided in subsection (~~e~~)(b) of this section:

(1) a person shall either accept an acknowledged ~~statutory form~~ power of attorney or request a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title not later than seven business days after presentation of the power of attorney for acceptance;

(2) if a person requests a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title, the person shall accept the ~~statutory form~~ power of attorney not later than five business days after receipt of the certification, translation, or opinion of counsel; and

(3) a person may not require an additional or different form of power of attorney for authority granted in the ~~statutory form~~ power of attorney presented.

~~(e)~~(b) A person is not required to accept an acknowledged ~~statutory form~~ power of attorney if:

(1) the person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(2) engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal or state law;

(3) the person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power;

(4) a request for a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title is refused;

(5) the person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title has been requested or provided; or

(6) the person makes, or has actual knowledge that another person has made, a report to the Adult Protective Services program or other appropriate entity within the Department of Disabilities, Aging, and Independent Living or to a law enforcement agency stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

~~(d)~~(c) A person who refuses in violation of this section to accept an acknowledged ~~statutory form~~ power of attorney is subject to:

(1) a court order mandating acceptance of the power of attorney; and

(2) liability for reasonable attorney's fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

Sec. 15. 14 V.S.A. § 4047 is amended to read:

§ 4047. GIFTS

* * *

(b) An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent or, if unknown, as the agent determines is consistent with the principal's best interests based on all relevant factors, including:

(1) evidence of the principal's intent;

(2) the principal's personal history of making or joining in the making of lifetime gifts;

(3) the principal's estate plan;

(4) the principal's foreseeable obligations and maintenance needs and the impact of the proposed gift on the principal's housing options, access to care and services, and general welfare;

(5) the income, gift, estate, or inheritance tax consequences of the transaction; and

(6) whether the proposed gift creates a foreseeable risk that the principal will be deprived of sufficient assets to cover the principal's needs during any period of Medicaid ineligibility that would result from the proposed gift.

~~(c) An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interests based on all relevant factors, including:~~

~~(1) the value and nature of the principal's property;~~

~~(2) the principal's foreseeable obligations and need for maintenance;~~

~~(3) minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;~~

~~(4) eligibility for a benefit, a program, or assistance under a statute or regulation; and~~

~~(5) the principal's personal history of making or joining in making gifts.~~
[Repealed.]

Sec. 16. 14 V.S.A. § 4051 is amended to read:

§ 4051. STATUTORY FORM POWER OF ATTORNEY

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

VERMONT STATUTORY FORM POWER OF ATTORNEY IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of

authority over subjects listed on this form is explained in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

This power of attorney does not authorize the agent to make health-care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you. Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form does not revoke powers of attorney previously executed by you unless you initial the introductory paragraph under DESIGNATION OF AGENT that all previous powers of attorney are revoked.

This form provides for designation of one agent. If you wish to name more than one agent, you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I _____ (Name of Principal) () revoke all previous powers of attorney and name the following person as my agent:

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____

Successor Agent's Address: _____

Successor Agent's Telephone Number: _____

If my agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent: _____

Second Successor Agent's Address: _____

Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127, together with the incidental powers enumerated in section 4033 of that chapter.

(~~INITIAL STRIKE THROUGH~~ each subject you DO NOT want to include in the agent's general authority. ~~If you wish to grant general authority over all of the subjects, you may initial "All Preceding Subjects" instead of initialing each subject.~~)

- Real Property
- Tangible Personal Property
- Stocks and Bonds
- Commodities and Options
- Banks and Other Financial Institutions
- Operation of Entity or Business
- Insurance and Annuities
- Estates, Trusts, and Other Beneficial Interests
- Claims and Litigation
- Personal and Family Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- ~~All Preceding Subjects~~

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

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

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

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

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

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

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

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

() Create, amend, or change a beneficiary designation

() Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

() Exercise fiduciary powers that the principal has authority to delegate

() Authorize another person to exercise the authority granted under this power of attorney

() Disclaim or refuse an interest in property, including a power of appointment

() Exercise authority with respect to elective share under 14 V.S.A. § 319

() Exercise waiver rights under 14 V.S.A. § 323

() Exercise authority over the content and catalogue of electronic communications and digital assets under 14 V.S.A. chapter 125 (Vermont Revised Uniform Fiduciary Access to Digital Assets Act)

() Exercise authority with respect to intellectual property, including, without limitation, copyrights, contracts for payment of royalties, and trademarks

() Convey, or revoke or revise a grantee designation, by enhanced life estate deed pursuant to 27 V.S.A. chapter 6 of Title 27 or under common law.

LIMITATION ON AGENT’S AUTHORITY

An agent who is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

WHEN POWER OF ATTORNEY EFFECTIVE

This power of attorney becomes effective when executed unless the principal has initialed one of the following:

() This power of attorney is effective only upon my later incapacity. OR

() This power of attorney is effective only upon my later incapacity or unavailability. OR

() I direct that this power of attorney shall become effective when one or more of the following occurs:

EFFECTIVE DATE

This power of attorney is effective immediately unless I have indicated or stated otherwise in the section above entitled When Power of Attorney Effective or in the section below entitled Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

EFFECTIVE DATE

~~This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.~~

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my estate or a guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for [conservator or guardian] of my estate: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

Name of Nominee for guardian of my person:

Nominee's Address: _____

Nominee's Telephone Number: _____

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid. Unless expressly stated otherwise, this power of attorney is durable and shall remain valid if I become incapacitated or unavailable.

SIGNATURE AND ACKNOWLEDGMENT

Your Name Printed: _____

Your Address: _____

Your Telephone Number: _____

State of: _____

County of: _____

This document was acknowledged before me on: _____ (Date)

by _____ . (Name of Principal)

(Seal, if any): _____

Signature of Notary: _____

My commission expires: _____

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interests;

(2) act in good faith;

(3) do nothing beyond the authority granted in this power of attorney;
and

(4) disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner: (Principal's Name) by (Your Signature) as Agent.

Unless the Special Instructions in this power of attorney state otherwise, you must also:

(1) act loyally for the principal's benefit;

(2) avoid conflicts that would impair your ability to act in the principal's best interest;

(3) act with care, competence, and diligence;

(4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) cooperate with any person that has authority to make health-care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interests; and

(6) attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interests.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

- (1) death of the principal;
- (2) the principal's revocation of the power of attorney or your authority;
- (3) the occurrence of a termination event stated in the power of attorney;
- (4) the purpose of the power of attorney is fully accomplished; or
- (5) if you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127. If you violate the Vermont Uniform Power of Attorney Act, or act outside the authority granted, you may be liable for any damages caused by your violation. In addition to civil liability, failure to comply with your duties and authority granted under this document could subject you to criminal prosecution.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

Sec. 17. 14 V.S.A. § 4052 is amended to read:

§ 4052. STATUTORY SHORT FORM POWER OF ATTORNEY FOR REAL ESTATE TRANSACTIONS

(a) A document substantially in the following form may be used to create a statutory form power of attorney for a real estate transaction that has the meaning and effect prescribed by this chapter. Nothing in this section shall prohibit a principal from using this form to grant other powers to an agent with respect to real property consistent with section 4034 of this title.

VERMONT STATUTORY FORM POWER OF ATTORNEY IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to take actions for you (the principal) in connection with a real estate transaction (sale, purchase, mortgage, ~~or~~ gift, or other authorized real estate transaction). Your agent will be able to make decisions and act with respect to a specific parcel of land whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

DESIGNATION OF AGENT

I/we _____ and _____
(Name(s) of Principal) appoint the following person as my (our) agent:

Name of Agent: _____

Name of Alternate Successor Agent: _____

Address of Property that is the subject of this power of attorney
(Street): _____, (Municipality)
_____, Vermont.

Transaction for which the power of attorney is given:

- Sale
- Purchase or Acquisition
- Mortgage
- Finance and/or Mortgage
- Gift
- Other _____

GRANT OF AUTHORITY

I/we grant my (our) agent and any alternate successor agent authority named in this power of attorney to act for me/us with respect to a real estate transaction involving the property with the address stated above, including, but not limited to, the powers described in 14 V.S.A. § 4034(2), (3), and (4) as provided in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127, together with the incidental powers enumerated in section 4033 of that chapter.

POWER TO DELEGATE

If this box is checked, each agent appointed in this power of attorney may delegate the authority to act to another person. Any delegation shall be in writing and executed in the same manner as this power of attorney.

TERM

This power of attorney commences when fully executed and continues until the real estate transaction for which it was given is complete.

SELF HEALING DEALING

[] If this box is checked, the agent named in this power of attorney may convey the subject real estate with or without consideration to the agent, individually, in trust, or to one or more persons with the agent.

CHOICE OF LAW

This power of attorney and the effect hereof shall be determined by the application of Vermont law and the Vermont Uniform Power of Attorney Act.

SIGNATURE AND ACKNOWLEDGMENT

Your Name Printed

Your Address

Your Telephone Number _____

State of _____

County of _____

This document was acknowledged before me on _____ (Date)

by _____

(Name of Principal)

(Seal, if any)

Signature of Notary _____

My Commission expires: _____

(b) A power of attorney in the form above confers on the agent the powers provided in subdivisions 4034(2), (3), and (4) of this chapter.

Sec. 18. 27 V.S.A. § 305 is amended to read:

§ 305. CONVEYANCES EFFECTED THROUGH POWER OF ATTORNEY

(a) A deed or other conveyance of lands or of an estate or interest therein, made by virtue of a power of attorney, shall not be of any effect or admissible in evidence unless the power of attorney is signed, ~~witnessed by one or more witnesses,~~ acknowledged, and recorded in the office where the deed is required to be recorded.

* * *

Sec. 19. 27 V.S.A. § 657 is amended to read:

§ 657. EXECUTION BY GUARDIAN; USE OF POWER OF ATTORNEY

(a) With the approval of the Probate Division, a guardian may convey the real property of a person under guardianship by an ELE deed.

(b) An ELE deed may be executed by an agent under a power of attorney if the power of attorney complies with the requirements of 14 V.S.A. chapter 123 following, including any applicable gifting and self-dealing provisions:

(1) 14 V.S.A. chapter 123, if the ELE deed was executed before July 1, 2023; or

(2) 14 V.S.A. chapter 127, if the ELE deed was executed on or after July 1, 2023.

Sec. 20. 15 V.S.A. § 558 is amended to read:

§ 558. WOMAN SPOUSE ALLOWED TO TAKE MAIDEN PRIOR NAME

Upon granting a divorce ~~to a woman~~, unless good cause is shown to the contrary, the court ~~may~~ shall allow ~~her~~ a spouse to resume ~~her maiden~~ the spouse's prior name or the name of a former ~~husband~~ spouse.

Sec. 21. 15 V.S.A. § 788 is amended to read:

§ 788. PARENT'S RESPONSIBILITY

(a) Any parent subject to a child support or parental rights and responsibilities order shall notify in writing the court ~~which~~ that issued the most recent order and the Office of Child Support of ~~his or her~~ the parent's current mailing address and current residence address and of any change in either address within seven business days ~~of~~ after the change, until all obligations to pay support or support arrearages, or to provide for parental rights and responsibilities are satisfied. For good cause, the court may keep information provided under this subsection confidential.

(b) When a wage withholding order is in effect, either parent shall notify in writing the registry of the name and address of a new employer within seven days ~~of~~ after commencing new employment. If the Registry has received information that a parent has changed employment, it shall notify the other parent of the fact of the change but shall not disclose the identity or the location of the employer. On request of a parent, the Registry shall provide information on the other parent's wages.

(c)(1) In all cases in which a temporary or final order for relief from abuse has been entered, information provided under this section shall be kept

confidential by the court. The court, for good cause shown, may release such information.

(2) For purposes of this subsection, good cause shall be deemed established when:

(A) a party to the relief from the abuse order consents to the release of the party's own information, in which case the court may release that party's information; or

(B) the temporary or final order for relief from abuse is no longer in effect.

Sec. 22. 23 V.S.A. § 203 is amended to read:

§ 203. COUNTERFEITING, FRAUD, AND MISUSE; PENALTY

(a) A person shall not:

* * *

(2) display or cause or permit to be displayed, or have in ~~his or her~~ the person's possession, any fictitious or fraudulently altered operator's license, learner's permit, nondriver identification card, inspection sticker, registration certificate, or in-transit registration permit, or display for any fraudulent purpose an expired or counterfeit insurance identification card or similar document;

* * *

(b)(1) Except as provided in subdivision (2) of this subsection, a violation of subsection (a) of this section shall be a traffic violation for which there shall be a penalty of not more than \$1,000.00. If a person is found to have committed the violation, the person's privilege to operate motor vehicles shall be suspended for 60 days.

(2)(A) If a person may be charged with a violation of subdivision (a)(2) of this section or with a violation of 7 V.S.A. § 656, the person shall be charged with a violation of 7 V.S.A. § 656 and not with a violation of this section.

(B) If a person may be charged with a violation of subdivision (a)(2) of this section or with a violation of 7 V.S.A. § 1005, the person shall be charged with a violation of 7 V.S.A. § 1005 and not with a violation of this section.

Sec. 23. 27 V.S.A. § 349 is amended to read:

§ 349. CONVEYANCE TO GRANTOR AND OTHERS

(a)(1) Without an intervening conveyance, a person may convey interests in real estate directly:

(1)(A) to ~~himself or herself~~ themselves in a different legal capacity; or

(2)(B) to ~~his or her~~ the person's spouse; or

(3)(C) to ~~himself or herself~~ themselves and one or more other persons, including ~~his or her~~ the person's spouse.

(2) A person shall not convey an interest in a tenancy by the entirety or in homestead property to any person except ~~his or her~~ the person's spouse, unless the spouse joins in the conveyance.

(b) A conveyance made pursuant to this section shall be effective to convey such title as would be conveyed by the deed if the grantor were not also a grantee.

Sec. 24. 27 V.S.A. § 378 is amended to read:

§ 378. EFFECT OF RECORDING UNACKNOWLEDGED DEED

A person interested in a deed or lease not acknowledged may cause the deed or lease to be recorded without acknowledgment before or during the application to the court or the proceedings before any of the authorities named in sections ~~371-376~~ 371-375 of this title; and, when so recorded in the proper office, it shall be as effectual as though the same had been duly acknowledged and recorded for 60 days thereafter. If such proceedings for proving the execution of the deed are pending at the expiration of such 60 days, the effect of such record shall continue until the expiration of six business days after the termination of the proceedings.

Sec. 25. 27 V.S.A. § 1302 is amended to read:

§ 1302. DEFINITIONS

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

* * *

(7) "Common expenses" include:

(A) all sums lawfully assessed against the apartment or site owners by the association of owners;

(B) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

(C) expenses agreed upon as common expenses by the association of owners; and

(D) expenses declared common expenses by this chapter, or by the declaration or the bylaws.

* * *

Sec. 26. 27 V.S.A. § 1470(a) is amended to read:

(a) ~~In~~ As used in this section, “Death Master File” means the U.S. Social Security Administration Death Master File or other database or service that is at least as comprehensive as the U.S. Social Security Administration Death Master File for determining that an individual reportedly has died.

Sec. 27. 27 V.S.A. § 1531(b) is amended to read:

(b) Before selling property under subsection (a) of this section, the Administrator shall give notice to the public of:

- (1) the date of the sale; and
- (2) a reasonable description of the property.

Sec. 28. 27 V.S.A. § 1533(b) is amended to read:

(b) Replacement of the security or calculation of market value under subsection (a) of this section must take into account a stock split, reverse stock split, stock dividend, or similar corporate action.

Sec. 29. 27 V.S.A. § 1552(c) is amended to read:

(c) The Administrator shall decide a claim under this section not later than 90 days after it is presented. If the Administrator determines that the other state is entitled under subsection (a) of this section to custody of the property, the Administrator shall allow the claim and pay or deliver the property to the other state.

Sec. 30. 27 V.S.A. § 1595(a) is amended to read:

(a) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this chapter or otherwise willfully fails to perform a duty imposed on the holder under this chapter, the Administrator may require the holder to pay the Administrator, in addition to interest as provided in subsection 1594(a) of this title, a civil penalty of \$1,000.00 for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of \$25,000.00, plus 25 percent of the amount or value of property that should have been but was not reported, paid, or delivered as a result of the evasion or failure to perform.

Sec. 31. REPEAL

27 V.S.A. chapter 7, subchapter 4 (congregational churches) is repealed.

Sec. 32. CONSTRUCTION OF ACT; PROPERTY INTERESTS NOT AFFECTED

Sec. 31 of this act repeals 27 V.S.A. chapter 7, subchapter 4 for the purpose of removing the statutory duties and procedures governing the transfer of property by congregational churches. This act shall not be construed to affect a religious corporation's rights or property interest in congregational church property. This act shall not supersede any act of the General Assembly that vested specific rights or interests in, or established specific procedures for the transfer of property by, a chartered religious corporation.

Sec. 33. 28 V.S.A. § 126 is amended to read:

§ 126. COORDINATED JUSTICE REFORM ADVISORY COUNCIL

* * *

(c) Powers and duties. The Coordinated Justice Reform Advisory Council shall:

* * *

(5) on or before September 1, 2023 and annually thereafter, recommend to the Commissioner of Corrections ~~the~~ a new appropriate allocation of not more than \$900,000.00 from the Justice Reinvestment II line item of the Department of Corrections' budget for the ~~upcoming~~ next fiscal year to support community-based programs and services, related data collection and analysis capacity, and other initiatives in accordance with subsection (a) of this section.

* * *

(e) Reports. On or before November 15, 2023 and annually thereafter, the Coordinated Justice Reform Advisory Council shall submit recommendations pursuant to subdivisions (c)(4) and (c)(5) of this section to the Joint Legislative Justice Oversight Committee; the Senate Committees on Appropriations and on Judiciary; and the House Committees on Appropriations, on Corrections and Institutions, and on Judiciary. Any recommendations submitted pursuant to subdivision (c)(4) shall be in the form of proposed legislation. The Council shall include in its reports the efforts it has made to consult with the organizations listed in subdivision (c)(3) of this section.

* * *

Sec. 34. 28 V.S.A. § 102 is amended to read:

§ 102. COMMISSIONER OF CORRECTIONS; APPOINTMENT;
POWERS; RESPONSIBILITIES

* * *

(c) The Commissioner is charged with the following responsibilities:

* * *

(23) To include the Coordinated Justice Reform Advisory Council's appropriation recommendations made pursuant to subdivision 126(c)(5) of this title in the Department's annual proposed budget for the next subsequent fiscal year for the purposes of developing the State budget required to be submitted to the General Assembly in accordance with 32 V.S.A. § 306.

Sec. 35. 29 V.S.A. § 561 is added to read:

§ 561. RELEASE OF OIL AND GAS LEASES

(a) After the expiration, cancellation, surrender, or relinquishment of an oil and gas lease, upon written request of the lessor, the lessee shall file a release or discharge of the lease in the land records of the town or towns where the lands described in the lease are located. The filing shall be in recordable form and shall include any fees.

(b) If any lessee, or the lessee's personal representative, successor, or assign, fails or refuses to record a release for a period of 30 days after being so requested, the lessee shall be liable for all damages occasioned thereby, including costs and reasonable attorney's fees.

(c) A lessor's request for release or discharge shall be in writing and delivered to the lessee by personal service or registered mail at the lessee's last known address.

Sec. 36. 29 V.S.A. § 563 is added to read:

§ 563. ABANDONMENT OF OIL AND GAS INTERESTS;
PRESERVATION

(a) An abandoned interest in oil and gas shall revert to and merge with the surface estate from which it was severed.

(b) An interest in oil and gas is deemed abandoned at any time that:

(1) it has been unused for a continuous period of 10 years after July 1, 1973; and

(2) no statement of interest under subsection (e) of this section has been filed at any time within the preceding five years.

(c) The provisions of subsection (b) of this section shall not apply to any interest in oil or gas that has been retained by the owner who originally severed the mineral estate from the surface estate, notwithstanding that other interests in the land, including ownership of the surface, may have been sold, leased, mortgaged, or otherwise transferred.

(d) This section applies to all interests in oil and gas. It also applies to interests in other minerals if created inclusively in the same instrument that expressly creates an oil and gas interest. It does not apply to mineral interests that do not expressly include an oil and gas interest or were intended to be separate from an oil and gas interest.

(e) An interest in oil and gas is deemed used at any time in which:

(1) there is actual production of oil or gas, including production from lands covered by a lease to which an oil and gas interest is subject, or from lands pooled or unitized with such lands;

(2) oil and gas operations are conducted under the terms of the instrument creating the oil and gas interest;

(3) payment is made of rental or royalties for the purpose of delaying the use or continuing the use of the oil and gas interest;

(4) payment of taxes is made on the oil and gas interest; or

(5) there exists a currently valid permit under 10 V.S.A. chapter 151 or a currently valid drilling permit under this chapter for development of the oil and gas interest.

(f) The owner of an interest in oil or gas may file a statement of interest in the land records of any municipality in which the land affected is located. The statement shall include a description of the land affected, the nature of the interest claimed, the book and page of recording of the original grant of the interest, and the name and address of the person claiming the interest.

(g) The owner of the surface estate from which an oil and gas interest was severed may give notice of abandonment under this subsection. Notice shall contain the name of the record owner of the interest; a description of the land and the nature of the interest; the book and page of filing of the interest, if it is filed; the name and address of the person giving notice; and a statement that the interest is presumed abandoned. The notice shall be published in a newspaper of general circulation in the town or towns where the land affected is located. If the address of the owner of the oil and gas interest is shown on record, a copy of the notice shall be mailed to that address by certified or registered mail within 10 days after the date of publication.

(h) A copy of the notice under subsection (g) of this section, and an affidavit, may be filed in the land records of the municipality in which the land is located. The affidavit shall state that the oil or gas interest has been abandoned under the criteria set forth in subsection (b) of this section, and that notice of abandonment has been given under the criteria set forth in subsection (g). After the notice and affidavit have been filed, unless a court finds to the contrary, the oil and gas interest shall be presumed abandoned, and the interest of the surface owner shall be presumed for all purposes free of encumbrance from that interest.

Sec. 37. 2022 Acts and Resolves No. 165, Secs. 8–10 are amended to read:

Sec. 8. [Deleted.]

Sec. 9. [Deleted.]

Sec. 10. [Deleted.]

Sec. 38. 2022 Acts and Resolves No. 165, Sec. 11(d) is amended to read:

~~(d) Secs. 8–10 (repeal of authority to use gun suppressors while hunting) shall take effect on July 1, 2024. [Deleted.]~~

Sec. 39. REPEAL OF DEPARTMENT OF CORRECTIONS PILOT PROJECT

Sec. 2 of 2021 Acts and Resolves No. 14 (Department of Corrections pilot project requiring report to court prior to sentencing a defendant to a term of probation for a felony) is repealed.

Sec. 40. 20 V.S.A. § 4626 is added to read:

§ 4626. DRONES; OPERATION OVER PRIVATE PROPERTY WITHOUT CONSENT OF OWNER; CIVIL PENALTY

(a) A person shall not fly a drone for hobby or recreational purposes at an altitude of less than 100 feet above privately owned real property unless the person has obtained prior written consent from the property owner.

(b) A person shall not, without the prior written consent of the property owner or occupant, use a drone to record an image of privately owned real property or of the owner or occupant of the property with the intent to conduct surveillance on the person or the property in violation of the person's reasonable expectation of privacy. For purposes of this subsection, a person is presumed to have a reasonable expectation of privacy on the person's privately owned real property if the person is not observable by another person located at ground level in a place where the other person has a legal right to be, regardless of whether the person is observable from the air using a drone.

(c) A person engaged in the business of selling drones shall provide written notice to each purchaser of a drone required to be registered by the U.S. Department of Transportation about the requirements under subsections (a) and (b) of this section for flying a drone above privately owned real property without the property owner’s prior written consent.

(d) A person who violates this section shall be assessed a civil penalty of not more than:

- (1) \$50.00 for a first violation; or
- (2) \$250.00 for a second or subsequent violation.

(e) As used in this section:

(1) “Property owner” means a person who owns, leases, licenses, or otherwise controls ownership or use of land, or an employee or agent of that person.

(2) “Surveillance” means:

(A) with respect to an owner or occupant of privately owned real property, the observation of the person with sufficient visual clarity to be able to obtain information about the person’s identity, habits, conduct, movements, or whereabouts; or

(B) with respect to privately owned real property, the observation of the property’s physical improvements with sufficient visual clarity to be able to determine unique identifying features about the property or information about its owners or occupants.

(f) This section shall not apply to the use of drones by:

(1) distribution or transmission utilities or their contractors for purposes of ensuring system reliability and resiliency; or

(2) a law enforcement officer for legitimate law enforcement purposes.

Sec. 41. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

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

* * *

(33) Violations of 20 V.S.A. § 4626, relating to flying, and providing information about flying, a drone above privately owned real property without the owner’s consent.

* * *

Sec. 42. 32 V.S.A. § 9605 is amended to read:

§ 9605. PAYMENT OF TAX

(a) The tax imposed by this chapter shall be paid to the Commissioner within 30 days after transfer of title to property subject to the tax or, in the case of a transfer or acquisition of a controlling interest in a person with title to property for which a deed is not given, within 30 days after transfer or acquisition.

(b) If an agreement, instrument, memorandum, or other writing evidencing a transfer of title to property is taxed as a deed at the time of its recording, the later recording of the deed to the property shall not be subject to the transfer tax.

(c)(1) Notwithstanding any provision of law to the contrary, in the case of a transfer of interest in property through a validly executed enhanced life estate deed recorded pursuant to 27 V.S.A. chapter 6, payment shall be due by the transferee within 30 days after transfer of title to the transferee pursuant to the deed. A completed property transfer return, noting the amount of tax due to the Department, shall be recorded along with the deed.

(2) No tax shall be due under this chapter on an enhanced life estate interest that is revoked or revised pursuant to 27 V.S.A. chapter 6, provided that, in the case of a revision, the revised enhanced life estate interest transfer shall be subject to tax under this chapter.

(3) When it appears from the land records that a property is subject to tax on an enhanced life estate interest under this chapter, a person having or claiming an interest in the property, or a person representing a person having or claiming an interest in the property may submit a notarized request to the Department for a statement that a property transfer tax on an enhanced life estate deed transfer has been paid. Notwithstanding any other provision of law, the Department shall respond to the request with a written statement that the tax has or has not been paid. If recorded in the land records, the department's response shall constitute evidence that the tax was paid.

Sec. 43. 32 V.S.A. § 9617 is amended to read:

§ 9617. NOTICES; APPEALS

Unless otherwise provided by this title:

* * *

~~(8)(A)~~ At any time within three years after the date a property is transferred, a taxpayer may petition the Commissioner in writing for the refund of all or any part of the amount of tax paid. The Commissioner shall thereafter grant a hearing subject to the provisions of 3 V.S.A. chapter 25 upon the matter and notify the taxpayer in writing of the Commissioner's determination concerning the refund request. The Commissioner's determination may be appealed as provided in subdivision (5) of this section. This shall be a taxpayer's exclusive remedy with respect to the refund of taxes under this chapter, ~~except as provided under subdivision (B) of this subsection.~~

~~(B) If the transfer taxed by this chapter was an enhanced life estate interest and that interest is revoked or revised pursuant to 27 V.S.A. chapter 6, the person who paid the tax may petition for a refund, provided that the petition is made within eight years after the date of payment of the tax and within one year after the date of revocation or revision. No petition for a refund shall be granted for the revocation or revision of an interest that occurred eight years or more after the date of payment of the tax. In the case of a revision, the revised enhanced life estate interest transfer shall be subject to tax under this chapter.~~

Sec. 44. 27 V.S.A. § 654 is amended to read:

§ 654. EXECUTION AND RECORDING OF AN ENHANCED LIFE ESTATE DEED

(a) Subject to the rights expressly reserved in the deed, a validly executed and recorded ELE deed does not:

- (1) affect the ownership rights of the grantor or the grantor's creditors;
- (2) transfer or convey any present right, title, or interest in the property or create any present legal or equitable interest in the grantee; or
- (3) subject the grantor's property to process from the grantee's creditors.

(b) The grantor may convey the property described in an ELE deed, or any portion thereof, without the need for joinder by, consent from, agreement of, or notice to the grantee.

(c) If not previously conveyed during the lifetime of the grantor, upon the death of the grantor, subject to encumbrances of record, the interest stated in an ELE deed vests in the grantee or, for a deceased grantee, the interest passes pursuant to section 658 of this title.

(d) An executed and recorded ELE deed shall be subject to the property transfer tax ~~under~~ according to the provisions of 32 V.S.A. chapter 231 § 9605(c).

Sec. 45. 13 V.S.A. § 2606 is amended to read:

§ 2606. DISCLOSURE OF SEXUALLY EXPLICIT IMAGES WITHOUT CONSENT

(a) As used in this section:

(1) “Disclose” includes transfer, publish, distribute, exhibit, or reproduce.

(2) “Harm” means physical injury, financial injury, or serious emotional distress.

(3) “Nude” means any one or more of the following uncovered parts of the human body:

(A) genitals;

(B) pubic area;

(C) anus; or

(D) post-pubescent female nipple.

(4) “Sexual conduct” shall have the same meaning as in section 2821 of this title.

(5) “Visual image” includes a photograph, film, videotape, recording, or digital reproduction, including an image created or altered by digitization.

(6) “Digitization” means the process of altering an image in a realistic manner utilizing an image or images of a person, including images other than the person depicted, or computer-generated images.

(b)(1) A person violates this section if ~~he or she~~ the person knowingly discloses a visual image of an identifiable person who is nude or who is engaged in sexual conduct, without ~~his or her~~ the person’s consent, with the intent to harm, harass, intimidate, threaten, or coerce the person depicted, and the disclosure would cause a reasonable person to suffer harm. A person may be identifiable from the image itself or information offered in connection with the image. Consent to recording or production of the visual image does not, by itself, constitute consent for disclosure of the image. A person who violates this subdivision (1) shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(2) A person who violates subdivision (1) of this subsection with the intent of disclosing the image for financial profit shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(c) A person who maintains an ~~Internet~~ internet website, online service, online application, or mobile application that contains a visual image of an identifiable person who is nude or who is engaged in sexual conduct shall not solicit or accept a fee or other consideration to remove, delete, correct, modify, or refrain from posting or disclosing the visual image if requested by the depicted person.

(d) This section shall not apply to:

(1) Images involving voluntary nudity or sexual conduct in public or commercial settings or in a place where a person does not have a reasonable expectation of privacy.

(2) Disclosures made in the public interest, including the reporting of unlawful conduct, or lawful and common practices of law enforcement, criminal reporting, corrections, legal proceedings, or medical treatment.

(3) Disclosures of materials that constitute a matter of public concern.

(4) Interactive computer services, as defined in 47 U.S.C. § 230(f)(2), or information services or telecommunications services, as defined in 47 U.S.C. § 153, for content solely provided by another person. This subdivision shall not preclude other remedies available at law.

(e)(1) A plaintiff shall have a private cause of action against a defendant who knowingly discloses, without the plaintiff's consent, an identifiable visual image of the plaintiff while ~~he or she~~ the plaintiff is nude or engaged in sexual conduct and the disclosure causes the plaintiff harm.

(2) In addition to any other relief available at law, the court may order equitable relief, including a temporary restraining order, a preliminary injunction, or a permanent injunction ordering the defendant to cease display or disclosure of the image. The court may grant injunctive relief maintaining the confidentiality of a plaintiff using a pseudonym.

Sec. 46. 15A V.S.A. § 3-504 is amended to read:

§ 3-504. GROUNDS FOR TERMINATING RELATIONSHIP OF PARENT
AND CHILD

(a) If a respondent answers or appears at the hearing and asserts parental rights, the court shall proceed with the hearing expeditiously. If the court finds, upon clear and convincing evidence, that any one of the following grounds exists and that termination is in the best interests of the minor, the

court shall order the termination of any parental relationship of the respondent to the minor:

* * *

(2) In the case of a minor over six months of age at the time the petition is filed, the respondent did not exercise parental responsibility for a period of at least six months immediately preceding the filing of the petition. In making a determination under this subdivision, the court shall consider all relevant factors, which may include the respondent's failure to:

(A) ~~make reasonable and consistent payments, in accordance with his or her financial means, for the support of the minor, although legally obligated to do so; [Repealed.]~~

(B) regularly communicate or visit with the minor; or

(C) during any time the minor was not in the physical custody of the other parent, manifest an ability and willingness to assume legal and physical custody of the minor.

* * *

Sec. 47. 13 V.S.A. § 3835 is added to read:

§ 3835. SURVEILLANCE DEVICES; PLACEMENT ON PRIVATE PROPERTY WITHOUT CONSENT OF OWNER; CIVIL PENALTY

(a) A person shall not place a camera or other surveillance device on any privately owned real property with the intent to conduct surveillance on the person or the property unless the person has obtained prior written consent from the property owner.

(b) A person who violates this section shall be assessed a civil penalty of not more than:

(1) \$50.00 for a first violation; or

(2) \$250.00 for a second or subsequent violation.

(c) This section shall not apply to the use of a camera or other surveillance device by a law enforcement officer for legitimate law enforcement purposes.

(d) As used in this section:

(1) "Property owner" means a person who owns, leases, licenses, or otherwise controls ownership or use of land, or an employee or agent of that person.

(2) "Surveillance" means:

(A) with respect to an owner or occupant of privately owned real property, the observation of the person with sufficient visual clarity to be able to obtain information about the person’s identity, habits, conduct, movements, or whereabouts; or

(B) with respect to privately owned real property, the observation of the property’s physical improvements with sufficient visual clarity to be able to determine unique identifying features about the property or information about its owners or occupants.

(3) “Surveillance device” means a device hidden or obscured from plain view that permits the observation of privately owned real property or the activities of a person on the property in a manner that invades a person’s reasonable expectation of privacy.

Sec. 48. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

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

* * *

(34) Violations of 13 V.S.A. § 3835, relating to placing a camera or other surveillance device on privately owned real property without the owner’s consent.

* * *

Sec. 49. INDIVIDUALS WITH INTELLECTUAL DISABILITIES;
SECURE, COMMUNITY-BASED RESIDENCES

(a) In fiscal year 2025, the Department of Disabilities, Aging, and Independent Living may construct, develop, purchase, or contract for one or more secure, community-based residences for the treatment of individuals in the Commissioner’s custody. The Commissioner shall ensure that a secure, community-based residence authorized under this section provides appropriate custody, care, and habilitation in a designated program, including the provision of psychiatric, psychological, nursing, and other medical care, as needed by the resident.

(b) Notwithstanding 18 V.S.A. chapter 221, subchapter 5, the establishment of one or more secure, community-based residences pursuant to this section shall not require a certificate of need.

(c) As used in this section:

(1) “Designated program” has the same meaning as in 18 V.S.A. § 8839.

(2) “Secure” means that residents may be physically prevented from leaving the residence by means of locking devices or other mechanical or physical mechanisms.

Sec. 50. REPORT; COMPETENCY RESTORATION PROGRAM; FISCAL ESTIMATE

On or before November 1, 2024, the Agency of Human Services shall submit a report to the House Committees on Appropriations and on Health Care and to the Senate Committees on Appropriations and on Health and Welfare that provides a fiscal estimate for the implementation of a competency restoration program operated or under contract with the Department of Mental Health. The estimate shall include:

(1) whether and how to serve individuals with an intellectual disability in a competency restoration program;

(2) varying options dependent upon which underlying charges are eligible for court-ordered competency restoration; and

(3) costs associated with establishing a residential program where court-ordered competency restoration programming may be performed on an individual who is neither in the custody of the Commissioner of Mental Health pursuant to 13 V.S.A. § 4822 nor in the custody of the Commissioner of Disabilities, Aging, and Independent Living pursuant to 13 V.S.A. § 4823.

Sec. 51. 23 V.S.A. § 941 is amended to read:

§ 941. INSURANCE AGAINST UNINSURED, UNDERINSURED, OR UNKNOWN MOTORIST

* * *

(f) For the purpose of this subchapter, a motor vehicle is underinsured to the extent that:

(1) the liability insurance limits applicable at the time of the crash are less than the ~~limits of the uninsured motorist coverage applicable to the insured~~ damages that a person insured pursuant to this section is legally entitled to recover because of injury or death; or

(2) the available liability insurance has been reduced by payments to others injured in the crash to an amount less than the ~~limits of the uninsured motorist coverage applicable to the insured~~ damages that a person insured pursuant to this section is legally entitled to recover because of injury or death.

* * *

(h) Payments made to an injured party under the liability insurance policy of the person legally responsible for the damage or personal injury shall not be deducted from the underinsured motorist coverage otherwise available to the injured party.

Sec. 52. 8 V.S.A. § 4203(4) is amended to read:

(4) Payment of any judicial judgment or claim by the insured for any of the company's liability under the policy shall not bar the insured from any action or right of action against the company. In case of payment of loss or expense under the policy, the company shall be subrogated to all rights of the insured against any party, as respects such loss or expense, to the amount of such payment, and the insured shall execute all papers required and shall cooperate with the company to secure to the company such rights. However, the right of subrogation against any third party shall not exist or be claimed in favor of the insurer who has paid or reimbursed, to or for the benefit of the insured, medical costs payable pursuant to medical payments coverage.

Sec. 53. APPLICABILITY

Secs. 51 and 52 of this act apply to all automobile insurance policies offered, issued, or renewed on or after January 1, 2025.

Sec. 54. 18 V.S.A. § 4248 is amended to read:

§ 4248. RECORDS

~~(a) Law enforcement departments and agencies, and other State departments and agencies that have custody of any property subject to forfeiture under this subchapter, or that dispose of such property, shall keep and maintain full and complete records including the following:~~

- ~~(1) from whom the property was received;~~
 - ~~(2) description of the property, including the exact kinds, quantities, and forms of the property;~~
 - ~~(3) value of the property;~~
 - ~~(4) if the property is deposited in an interest-bearing account, the location of the account and the amount of interest;~~
 - ~~(5) under what authority the property was held or received or disposed;~~
 - ~~(6) to whom the property was delivered;~~
 - ~~(7) the date and manner of destruction or disposition of the property~~
- Annually, on or before December 15, the Department of Public Safety shall report all criminal and civil seizures and forfeitures made by law enforcement

agencies under federal and State law to the Senate and House Committees on Judiciary.

(b) Those records shall be submitted to the State Treasurer and shall be open to inspection by all federal and State departments and agencies charged with enforcement of federal and State drug control laws. Persons making final disposition or destruction of the property under court order shall report, under oath, to the court the exact circumstances of that disposition or destruction and a copy of that report shall be sent to the State Treasurer. Law enforcement agencies that seize property subject to forfeiture under this subchapter and applicable federal drug laws shall maintain complete records for the agency's own use and annually submit a report, on or before November 15, to the Department of Public Safety containing information about each seizure, including the following:

(1) the name of the law enforcement agency, State task force, or joint state-federal task force that seized the property;

(2) a description of the property, including the exact kinds, quantities, and forms of the seized property;

(3) the date and estimated value of the seized property;

(4) under what suspected crime or authority the property was seized;

(5) whether the person from whom the property was seized waived ownership as part of an agreement with a prosecutor or law enforcement agency;

(6) the name of the State or federal office, department, or agency responsible for prosecuting any associated criminal case and the criminal charge filed against the person from whom the property was seized or other property owner;

(7) the criminal docket number and court in which the criminal case was filed;

(8) the name of the State or federal office, department, or agency responsible for prosecuting the property's forfeiture;

(9) the civil, administrative, or criminal forfeiture docket number and the court in which the forfeiture case was filed;

(10) whether the property owner defaulted in the civil, administrative, or criminal forfeiture case;

(11) the date and disposition of the property, including whether it was returned to the owner, innocent owner or creditor; partially returned to the

owner, innocent owner or creditor; sold, destroyed, or retained by a law enforcement agency; or is pending disposition; and

(12) the date and value of the forfeiture proceeds remitted to the law enforcement agency.

(c) The Department of Public Safety shall establish a searchable public website in which the data is machine-readable. The Department may adopt rules and establish policies and procedures concerning additional requirements, including forms, instructions, deadlines, fees, penalties, audits, null reports, and a website necessary to implement this section.

(d) A law enforcement agency may postpone the reporting of a particular seizure if the property was seized from a confidential informant under the agency's confidential informant policy. Such postponement may continue for as long as the confidential informant cooperates with the law enforcement agency, after which time the agency shall report the seizure as required by this section.

(e) The Department of Public Safety may recoup its costs in publishing the report required pursuant to subsection (a) of this section by charging a fee to the law enforcement agency filing the report required by subsection (b) of this section other than an agency that files a null report. The law enforcement agency may use forfeiture proceeds to pay the costs of compiling and reporting pursuant to this section and to pay any fees imposed by the Department of Public Safety.

Sec. 55. APPLICABILITY

Notwithstanding 1 V.S.A. § 214, Sec. 54 of this act shall apply retroactively to any seizures occurring on and after January 1, 2024.

Sec. 56. EFFECTIVE DATES

This act shall take effect on passage, except that notwithstanding 1 V.S.A. § 214, Sec. 12 (13 V.S.A. § 7282) shall take effect on passage and shall apply retroactively to July 1, 2023.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 21, 2024, page 683)

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

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Judiciary, with further recommendation of proposal of amendment as follows:

By striking out Secs. 42, 43, and 44 in their entireties and inserting in lieu thereof new Secs. 42, 43, and 44 to read as follows:

Sec. 42. [Deleted.]

Sec. 43. 32 V.S.A. § 9617 is amended to read:

§ 9617. NOTICES; APPEALS

Unless otherwise provided by this title:

* * *

(8)(A) At any time within three years after the date a property is transferred, a taxpayer may petition the Commissioner in writing for the refund of all or any part of the amount of tax paid. The Commissioner shall thereafter grant a hearing subject to the provisions of 3 V.S.A. chapter 25 upon the matter and notify the taxpayer in writing of the Commissioner's determination concerning the refund request. The Commissioner's determination may be appealed as provided in subdivision (5) of this section. This shall be a taxpayer's exclusive remedy with respect to the refund of taxes under this chapter, except as provided under subdivision (B) of this subsection ~~subdivision (8)~~.

(B) If the transfer taxed by this chapter was an enhanced life estate interest and that interest is revoked or revised pursuant to 27 V.S.A. chapter 6, the person who paid the tax may petition for a refund, ~~provided that the petition is made within eight years after the date of payment of the tax and within one year at any time after the date of revocation or revision. No petition for a refund shall be granted for the revocation or revision of an interest that occurred eight years or more after the date of payment of the tax.~~ In the case of a revision, the revised enhanced life estate interest transfer shall be subject to tax under this chapter.

Sec. 44. [Deleted.]

(Committee vote: 7-0-0)

**Amendment to proposal of amendment of the Committee on Judiciary to
H. 878 to be offered by Senator Sears**

Senator Sears moves to amend the proposal of amendment of the Committee on Judiciary in Sec. 47, 13 V.S.A. § 3835, in subsection (a), after the words "conduct surveillance on", by striking out the word "the" and inserting in lieu thereof the word a

Amendment to proposal of amendment of the Committee on Judiciary to H. 878 to be offered by Senator Sears

Senator Sears moves to amend the proposal of amendment of the Committee on Judiciary in Sec. 11, 13 V.S.A. § 4816, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) Introduction of a report under subsection ~~(d)~~(e) of this section shall not preclude either party or the court from calling the psychiatrist or psychologist who wrote the report as a witness or from calling witnesses or introducing other relevant evidence. Any witness called by either party on the issue of the defendant's competency shall be at the State's expense, or, if called by the court, at the court's expense. Notwithstanding any other provision of law or rule, if called as a witness, the psychiatrist or psychologist who wrote the report shall be permitted to provide testimony remotely.

Amendments to proposal of amendment of the Committee on Judiciary to H. 878 to be offered by Senators Vyhovsky, Sears and Hashim

Senators Vyhovsky, Sears and Hashim move to amend the proposal of amendment of the Committee on Judiciary by adding two new sections to be Secs. 56 and 57 to read as follows:

Sec. 56. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter:

* * *

(40) ~~“Crack cocaine” means the free-base form of cocaine.~~ [Repealed.]

* * *

Sec. 57. 18 V.S.A. § 4231 is amended to read:

§ 4231. COCAINE

* * *

(c) Trafficking.

(1) ~~Trafficking.~~ A person knowingly and unlawfully possessing cocaine in an amount consisting of 150 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine with the intent to sell or dispense the cocaine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses cocaine in an amount consisting of 150 grams or

more of one or more preparations, compounds, mixtures, or substances containing cocaine intends to sell or dispense the cocaine. The amount of possessed cocaine under this subdivision to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be ~~no~~ not less than 400 grams in the aggregate.

~~(2) A person knowingly and unlawfully possessing crack cocaine in an amount consisting of 60 grams or more of one or more preparations, compounds, mixtures, or substances containing crack cocaine with the intent to sell or dispense the crack cocaine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses crack cocaine in an amount consisting of 60 grams or more of one or more preparations, compounds, mixtures, or substances containing crack cocaine intends to sell or dispense the crack cocaine. [Repealed.]~~

and by renumbering the remaining section to be numerically correct.

Amendments to proposal of amendment of the Committee on Judiciary to H. 878 to be offered by Senator Vyhovsky

Senator Vyhovsky moves to amend the proposal of amendment of the Committee on Judiciary by striking out Secs. 54 and 55 in their entireties and inserting in lieu thereof new Secs. 54 and 55 to read as follows:

Sec. 54. DEPARTMENT OF PUBLIC SAFETY PROPOSAL; ASSET FORFEITURE REPORTING

On or before December 15, 2024, the Department of Public Safety shall report to the Senate and House Committees on Judiciary proposed options for compiling and submitting periodic reports to the Legislature containing data about criminal and civil seizures and forfeitures made by law enforcement agencies in Vermont under federal and State law. The proposed options shall:

(1) further the goal of increasing transparency with respect to asset seizures and forfeitures;

(2) describe how the data could be formatted in an understandable and consumable manner; and

(3) include options for providing data about:

(A) how often asset seizure and forfeitures occur in Vermont;

(B) the types of offenses that result in asset seizure and forfeitures;

(C) the disposition of cases in which an asset seizure or forfeiture occurred; and

(D) how the seized or forfeited property was allocated and used.

Sec. 55. [Deleted.]

Report of Committee of Conference

H. 883.

An act relating to making appropriations for the support of government.

(For text of the Report of the Committee of Conference see Addendum to Senate Calendar for May 8, 2024)

NEW BUSINESS

Third Reading

H. 612.

An act relating to miscellaneous cannabis amendments.

H. 875.

An act relating to the State Ethics Commission and the State Code of Ethics.

House Proposals of Amendment

S. 114.

An act relating to the establishment of the Psychedelic Therapy Advisory Working Group

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PSYCHEDELIC THERAPY ADVISORY WORKING GROUP; STUDY

(a) Creation. There is created the Psychedelic Therapy Advisory Working Group for the purpose of reviewing existing research on the cost-benefit profile of the use of psychedelics to improve mental health and to make findings and recommendations regarding the advisability of the establishment of a State program to permit health care providers to administer psychedelics in a therapeutic setting and the impact on public health of allowing individuals to legally access psychedelics under State law.

(b) Membership. The Working Group shall be composed of the following members:

- (1) the Dean of the Larner College of Medicine at the University of Vermont or designee;
- (2) the President of the Vermont Psychological Association or designee;
- (3) the President of the Vermont Psychiatric Association or designee;

(4) the Executive Director of the Vermont Board of Medical Practice or designee;

(5) the Director of the Vermont Office of Professional Regulation or designee;

(6) the Executive Director of the Vermont Medical Society or designee;

(7) the Vermont Commissioner of Health or designee;

(8) the Vermont Commissioner of Mental Health or designee; and

(9) an expert in psychedelic treatment of mental conditions who is affiliated with a Vermont hospital currently providing ketamine therapy appointed by the Vermont Commissioner of Mental Health.

(c) Powers and duties.

(1) The Working Group shall:

(A) review the latest research and evidence of the public health benefits and risks of clinical psychedelic assisted treatments; and

(B) examine the laws and programs of other states that have authorized the use of psychedelics by health care providers in a therapeutic setting and necessary components and resources if Vermont were to pursue such a program.

(2) The Working Group shall seek testimony from Johns Hopkins' Center for Psychedelic and Consciousness Research, in addition to any other entities with an expertise in psychedelics.

(d) Assistance. The Working Group shall have the assistance of the Vermont Department of Mental Health, in collaboration with the Vermont Psychological Association, for purposes of scheduling and staffing meetings and developing and submitting the report required by subsection (e) of this section.

(e) Report. On or before November 15, 2024, the Working Group shall submit a written report to the House and Senate Committees on Judiciary, the House Committee on Health Care, the House Committee on Human Services, and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Vermont Department of Mental Health shall call the first meeting of the Working Group to occur on or before July 15, 2024.

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

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

(4) The Working Group shall cease to exist on January 1, 2025.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

S. 167.

An act relating to miscellaneous amendments to education law

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Public Construction Bids * * *

Sec. 1. 16 V.S.A. § 559 is amended to read:

§ 559. PUBLIC BIDS

* * *

(b) High-cost construction contracts. When a school construction contract exceeds ~~\$500,000.00~~ \$2,000,000.00:

(1) The State Board shall establish, in consultation with the Commissioner of Buildings and General Services and with other knowledgeable sources, general rules for the prequalification of bidders on such a contract. The Department of Buildings and General Services, upon notice by the Secretary, shall provide to school boards undergoing construction projects suggestions and recommendations on bidders qualified to provide construction services.

(2) At least 60 days prior to the proposed bid opening on any construction contract to be awarded by a school board that exceeds ~~\$500,000.00~~ \$2,000,000.00, the school board shall publicly advertise for contractors interested in bidding on the project. The advertisement shall indicate that the school board has established prequalification criteria that a contractor must meet and shall invite any interested contractor to apply to the school board for prequalification. All interested contractors shall submit their qualifications to the school board, which shall determine a list of eligible prospective bidders based on the previously established criteria. At least 30 days prior to the proposed bid opening, the school board shall give written notice of the board's determination to each contractor that submitted

qualifications. The school board shall consider all bids submitted by prequalified bidders meeting the deadline.

(c) Contract award.

(1) A contract for any such item or service to be obtained pursuant to subsection (a) of this section shall be ~~awarded to one of~~ selected from among the three or fewer lowest responsible bids conforming to specifications, with consideration being given to quantities involved, time required for delivery, purpose for which required, competency and responsibility of bidder, and ~~his or her~~ the bidder's ability to render satisfactory service. A board shall have the right to reject any or all bids.

(2) A contract for any property, construction, good, or service to be obtained pursuant to subsection (b) of this section shall be awarded to the lowest responsible bid conforming to specifications. However, when considering the base contract amount and without considering cost overruns, if the two lowest responsible bids are within one percent of each other, the board may award the contract to either bidder. A board shall have the right to reject any bid found not to be responsible or conforming to specifications or to reject all bids.

* * *

(e) Application of this section. Any contract entered into or purchase made in violation of the provisions of this section shall be void; provided, however, that:

(1) The provisions of this section shall not apply to contracts for the purchase of books or other materials of instruction.

(2) A school board may name in the specifications and invitations for bids under this section the particular make, kind, or brand of article or articles to be purchased or contracted.

(3) Nothing in this section shall apply to emergency repairs.

(4) ~~Nothing in this section shall be construed to prohibit a school board from awarding a school nutrition contract after using any method of bidding or requests for proposals permitted under federal law for award of the contract. Notwithstanding the monetary amount in subsection (a) of this section for which a school board is required to advertise publicly or invite three or more bids or requests for proposal, a school board is required to publicly advertise or invite three or more bids or requests for proposal for purchases made from the nonprofit school food service account for purchases in excess of the federal simplified acquisition threshold when purchasing food or in excess of \$25,000.00 when purchasing nonfood items, unless a municipality sets a lower~~

~~threshold for purchases from the nonprofit school food service account. The provisions of this section shall not apply to contracts for the purchase of food made from a nonprofit school food services account.~~

* * *

* * * Postsecondary Schools Chartered in Vermont * * *

Sec. 2. 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, 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 and Graduate 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.

* * *

Sec. 3. 2023 Acts and Resolves No. 29, Sec. 6(c) is amended to read:

(c) Sec. 2 (16 V.S.A. § 1480) shall take effect on ~~July 1, 2024~~ July 1, 2025.

* * * Holocaust Education * * *

Sec. 4. HOLOCAUST EDUCATION; DATA COLLECTION; REPORT

(a) On or before December 1, 2024, the Agency of Education shall request from all supervisory unions information regarding how Holocaust education is taught in the prekindergarten through grade 12 supervisory union-wide curriculum. The Agency may consult with such entities as the U.S. Holocaust Museum and the Vermont Holocaust Memorial.

(b) On or before September 1, 2025, Supervisory unions shall report back to the Agency with the information requested pursuant to subsection (a) of this section.

(c) On or before January 1, 2026, the Agency shall submit a written report to the Senate and House Committees on Education with information, organized by supervisory union, regarding the inclusion of Holocaust education in curriculum across the State.

* * * Virtual Learning * * *

Sec. 5. 16 V.S.A. § 948 is added to read:

§ 948. VIRTUAL LEARNING

(a) The Agency of Education shall maintain access to and oversight of a virtual learning provider for the purpose of offering virtual learning opportunities to Vermont students.

(b) A student may enroll in virtual learning if:

(1) the student is enrolled in a Vermont public school, including a Vermont career technical center;

(2) virtual learning is determined to be an appropriate learning pathway outlined in the student's personalized learning plan; and

(3) the student's learning experience occurs under the supervision of an appropriately licensed educator and aligns with State expectations and standards, as adopted by the Agency and the State Board of Education, as applicable.

(c) The Agency of Education shall adopt rules pursuant to 3 V.S.A. chapter 25 to implement this section.

(d) A school district shall count a student enrolled in virtual learning in the school district's average daily membership, as defined in section 4001 of this title, if the student meets all of the criteria in subsection (b) of this section.

Sec. 6. 16 V.S.A. § 942(13) is amended to read:

(13) "Virtual learning" means learning in which the teacher and student communicate concurrently through real-time telecommunication. "Virtual learning" also means online learning in which communication between the teacher and student does not occur concurrently and the student works according to his or her own schedule in an intentionally designed learning environment for online teaching and learning using online design principles and teachers trained in the delivery of online instruction. This instruction may take place either in a self-paced environment or a real-time environment.

* * * Home Study Program * * *

Sec. 7. 16 V.S.A. § 166b is amended to read:

§ 166b. HOME STUDY PROGRAM

(a) Enrollment notice. A parent or legal guardian shall send the Secretary notice of intent to enroll the parent's or legal guardian's child in a home study program at least 10 business days prior to commencing home study. Such notice shall be submitted via a form developed by the Agency of Education. A notice under this subsection shall include the following:

* * *

(5) An attestation that each child being enrolled in home study will be provided the equivalent of at least 175 days of instruction in the minimum course of study per year, specifically. The instruction provided shall be adapted in each of the minimum courses of study to the age and ability of each child, as well as the disability of each child, as applicable. Nothing in this section shall be construed to require a home study program to follow the program or methods used by public schools. Specifically, the minimum course of study per year means:

(A) for a child who is younger than 13 years of age, the subject areas listed in section 906 of this title;

(B) for a child who is 13 years of age or older, the subject areas listed in subdivisions 906(b)(1), (2), (4), and (5) of this title; or

(C) for students with documented disabilities, a parent or guardian must attest to providing adaptations to support the student in the home study program.

* * *

(e) Hearings after enrollment. If the Secretary has information that reasonably could be expected to justify an order of termination under this section, the Secretary may call a hearing. At the hearing, the Secretary shall establish one or more of the following:

(1) the home study program has substantially failed to comply with the requirements of this section;

(2) the home study program has substantially failed to provide a student with the minimum course of study;

(3) the home study program will not provide a student with the minimum course of study; or

(4) the home study program has failed to show progress commensurate with age and ability in the annual assessment maintained by the home study program.

(f) Notice and procedure. Notice of a hearing shall include a brief summary of the material facts and shall be sent to each parent or guardian and each instructor of the student or students involved who are known to the Secretary. The hearing shall occur within 30 days following the day that notice is given or sent. The hearing shall be conducted by an impartial hearing officer appointed by the Secretary from a list approved by the State Board. At the request of the child's parent or guardian, the hearing officer shall conduct the hearing at a location in the vicinity of the home study program.

(g) Order following hearing. After hearing evidence, the hearing officer shall enter an order within 10 working days. The order shall provide that enrollment be continued or that the enrollment be terminated. An order shall take effect immediately. Unless the hearing officer provides for a shorter period, an order terminating enrollment shall extend until the end of the following school year, as defined in this title. If the order is to terminate the enrollment, a copy shall be given to the appropriate superintendent of schools, who shall take appropriate action to ensure that the child is enrolled in a school as required by this title. Following a hearing, the Secretary may petition the hearing officer to reopen the case only if there has been a material change in circumstances.

* * *

* * * Secretary of Education Search * * *

Sec. 8. 3 V.S.A. § 2702 is amended to read:

§ 2702. SECRETARY OF EDUCATION

(a) With the advice and consent of the Senate, the Governor shall appoint a Secretary of Education from among ~~no~~ not fewer than three candidates proposed by the State Board of Education. The Secretary shall serve at the pleasure of the Governor.

(1) The State Board shall begin a robust national search process not later than 60 days after public notification of the resignation of a Secretary of Education.

(2) The State Board may request from the Agency of Education the funds necessary to utilize outside resources for the search process required pursuant to this subsection.

(b) The Secretary shall report directly to the Governor and shall be a member of the Governor's Cabinet.

(c) At the time of appointment, the Secretary shall have expertise in education management and policy demonstrated leadership and management abilities.

* * * Agency of Education Financial Data Report * * *

Sec. 9. EDUCATION FINANCE INFORMATION; AGENCY OF EDUCATION; REPORT

(a) On or before September 15, 2024, the Agency of Education shall submit a written report to the General Assembly that shall include the following information for fiscal years 2023 and 2024:

(1) a financial analysis of the cost of the mental health and behavioral needs services provided by school districts and paid for from the Education Fund, broken down by costs in the following categories:

(A) mental health and behavioral needs staffing costs;

(B) mental health and behavioral needs transportation related costs;

and

(C) costs associated with educating students outside the district due to mental health or behavioral needs; and

(2) the districts that provide for the education of their students in any grade by paying tuition, including the following information, by school district:

(A) the number of students tuitioned in each grade; and

(B) the name and location of the schools students are tuitioned to, including the number of students in each school district attending a particular school and the amount of tuition charged by each receiving school.

(b) On or before December 1 2024, the Agency of Education shall submit a written report to the General Assembly with an analysis whether an interagency collaboration between the Agencies of Education and of Human Services to provide the social services currently provided by school districts is possible and, if so, what the possible advantages or disadvantages to such a collaboration might be.

* * * Overpayment of Education Taxes * * *

Sec. 10. COMPENSATION FOR OVERPAYMENT

(a) Notwithstanding any provision of law to the contrary, the sum of \$29,224.00 shall be transferred from the Education Fund to the Town of Canaan in fiscal year 2025 to compensate the homestead taxpayers of the Town of Canaan for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Canaan.

(b) Notwithstanding any provision of law to the contrary, the sum of \$5,924.00 shall be transferred from the Education Fund to the Town of Bloomfield in fiscal year 2025 to compensate the homestead taxpayers of the Town of Bloomfield for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Bloomfield.

(c) Notwithstanding any provision of law to the contrary, the sum of \$2,575.00 shall be transferred from the Education Fund to the Town of Brunswick in fiscal year 2025 to compensate the homestead taxpayers of the Town of Brunswick for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Brunswick.

(d) Notwithstanding any provision of law to the contrary, the sum of \$6,145.00 shall be transferred from the Education Fund to the Town of East Haven in fiscal year 2025 to compensate the homestead taxpayers of the Town of East Haven for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of East Haven.

(e) Notwithstanding any provision of law to the contrary, the sum of \$2,046.00 shall be transferred from the Education Fund to the Town of Granby in fiscal year 2025 to compensate the homestead taxpayers of the Town of Granby for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Granby.

(f) Notwithstanding any provision of law to the contrary, the sum of \$10,034.00 shall be transferred from the Education Fund to the Town of Guildhall in fiscal year 2025 to compensate the homestead taxpayers of the Town of Guildhall for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Guildhall.

(g) Notwithstanding any provision of law to the contrary, the sum of \$20,536.00 shall be transferred from the Education Fund to the Town of Kirby in fiscal year 2025 to compensate the homestead taxpayers of the Town of Kirby for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Kirby.

(h) Notwithstanding any provision of law to the contrary, the sum of \$2,402.00 shall be transferred from the Education Fund to the Town of Lemington in fiscal year 2025 to compensate the homestead taxpayers of the Town of Lemington for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Lemington.

(i) Notwithstanding any provision of law to the contrary, the sum of \$11,464.00 shall be transferred from the Education Fund to the Town of Maidstone in fiscal year 2025 to compensate the homestead taxpayers of the Town of Maidstone for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Maidstone.

(j) Notwithstanding any provision of law to the contrary, the sum of \$4,349.00 shall be transferred from the Education Fund to the Town of Norton in fiscal year 2025 to compensate the homestead taxpayers of the Town of Norton for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Norton.

(k) Notwithstanding any provision of law to the contrary, the sum of \$2,657.00 shall be transferred from the Education Fund to the Town of Victory in fiscal year 2025 to compensate the homestead taxpayers of the Town of Victory for an overpayment of education taxes in fiscal year 2024 due to

erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Victory.

* * * Military-Related Postsecondary Education and Training
Opportunities * * *

Sec. 10a. 16 V.S.A. § 941 is amended to read:

§ 941. FLEXIBLE PATHWAYS INITIATIVE

(a) There is created within the Agency a Flexible Pathways Initiative:

(1) to encourage and support the creativity of school districts as they develop and expand high-quality educational experiences that are an integral part of secondary education in the evolving 21st ~~Century~~ century classroom;

(2) to promote opportunities for Vermont students to achieve postsecondary readiness through high-quality educational experiences that acknowledge individual goals, learning styles, and abilities; and

(3) to increase the rates of secondary school completion and postsecondary continuation and retention in Vermont.

(b) The Secretary shall develop, publish, and regularly update guidance, in the form of technical assistance, sharing of best practices and model documents, legal interpretations, and other support designed to assist school districts:

(1) ~~to~~ To identify and support secondary students who require additional assistance to succeed in school and to identify ways in which individual students would benefit from flexible pathways to graduation;

(2) ~~to~~ To work with every student in grade 7 ~~seven~~ through grade 12 in an ongoing personalized learning planning process that:

(A) identifies the student's emerging abilities, aptitude, and disposition;

(B) includes participation by families and other engaged adults;

(C) guides decisions regarding course offerings and other high-quality educational experiences; ~~and~~

(D) identifies career and postsecondary planning options using resources provided pursuant to subdivision (4) of this subsection (b); and

~~(D)~~(E) is documented by a personalized learning plan;

(3) ~~to~~ To create opportunities for secondary students to pursue flexible pathways to graduation that:

(A) increase aspiration and encourage postsecondary continuation of training and education;

(B) are an integral component of a student's personalized learning plan; and

(C) include:

(i) applied or work-based learning opportunities, including career and career technical education and internships;

(ii) virtual learning and blended learning;

(iii) dual enrollment opportunities as set forth in section 944 of this title;

(iv) early college programs as set forth in subsection 4011(e) of this title;

(v) the High School Completion Program as set forth in section 943 of this title; and

(vi) the Adult Diploma Program and General Educational Development Program as set forth in section 945 of this title; and

(4) ~~to~~ To provide students, beginning ~~no~~ not later than in grade ~~7~~ seven, with career development and postsecondary planning resources to ensure that they are able to take full advantage of the opportunities available within the flexible pathways to graduation and to achieve their career and postsecondary education and training goals. Resources provided pursuant to this subdivision shall include information regarding the admissions process and requirements necessary to proceed with any and all military-related opportunities.

* * *

Sec. 10b. 16 V.S.A. § 2828 is added to read:

§ 2828. PLANNING RESOURCES; U.S. ARMED FORCES OPTIONS

The Corporation's print and website financial aid and planning publications for postsecondary education and training resources shall include Vermont National Guard and U. S. Armed Forces options relevant to each publication.

* * * Effective Date * * *

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

S. 183.

An act relating to reenvisioning the Agency of Human Services

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND PURPOSE

(a) Since its establishment in 1970, Vermont's Agency of Human Services has grown significantly in both size and scope. In its current form, the Agency is composed of six departments: the Department for Children and Families; the Department of Corrections; the Department of Disabilities, Aging, and Independent Living; the Department of Health; the Department of Mental Health; and the Department of Vermont Health Access, along with several divisions and many offices, boards, and councils. The Agency's budget comprises more than half of the overall State budget, and the programs and benefits administered by the Agency and its departments have an impact on the lives of all Vermonters.

(b) The purpose of this act is to create a meaningful process through which the Agency, its departments, and the individuals and organizations with whom they engage most can collaborate to identify opportunities to build on past successes and to make improvements for the future.

Sec. 2. REENVISIONING THE AGENCY OF HUMAN SERVICES; REPORT

(a) The Secretary of Human Services, in collaboration with the commissioner of each department within the Agency of Human Services and in consultation with relevant commissions, councils, and advocacy organizations; community partners; individuals and families impacted by the Agency and its departments; State employees; and other interested stakeholders, shall consider options for reenvisioning the Agency of Human Services, such as restructuring the existing Agency of Human Services or dividing the existing Agency of Human Services into two or more separate agencies.

(b) The Secretary of Human Services and the other stakeholders identified in subsection (a) of this section shall evaluate the current structure of the Agency of Human Services, identify potential options for reenvisioning the Agency and engage in a cost-benefit analysis of each option, and develop one or more recommendations for implementation.

(c) The Agency shall solicit open, candid feedback from the stakeholders identified in subsection (a) of this section to inform the evaluation, identification of options, and development of recommendations. To the extent

feasible, the Agency shall engage existing boards, committees, and other channels to collect input from individuals and families who are directly impacted by the work of the Agency and its departments.

(d) On or before February 1, 2025, the Secretary shall present to the House Committees on Government Operations and Military Affairs, on Health Care, and on Human Services and the Senate Committees on Government Operations and on Health and Welfare an update on the status of the stakeholder process and development of recommendations as set forth in this section.

(e) On or before November 1, 2025, the Secretary shall provide the recommendations developed by the Secretary and stakeholders to the House Committees on Government Operations and Military Affairs, on Health Care, and on Human Services and the Senate Committees on Government Operations and on Health and Welfare, including the following:

(1) the rationale for selecting the recommended option or options;

(2) the likely impact of the recommendations on the departments within the Agency and on the Vermonters served by those departments, including Vermonters who are members of historically marginalized communities;

(3) how the recommendations would center the needs of and lead to better outcomes for the individuals and families served by the Agency and its departments and make the Agency more accountable to the Vermonters whom it serves;

(4) how the recommendations could improve collaboration, integration, and alignment of the services currently provided by the Agency and its departments and how they could enhance coordination and communication among the departments and with community partners;

(5) how the recommendations could address the workforce and personnel capacity challenges that the Agency and its departments encounter;

(6) how the recommendations could address the facility challenges that the Agency and its departments encounter;

(7) how the recommendations could strengthen the use of technology to improve access to programs and services, increase accountability, enhance coordination, and expand data collection and analysis;

(8) a transition and implementation plan for the recommendations that is designed to minimize confusion and disruption for individuals and families served by the Agency and its departments, as well as for Agency and departmental staff;

(9) a proposed organizational chart for any recommended reconfigurations; and

(10) the estimated costs or savings associated with the recommendations.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

S. 192.

An act relating to forensic facility admissions criteria and processes

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Purpose * * *

Sec. 1. PURPOSE

It is the purpose of this act to:

(1) enable the Commissioner of Mental Health to seek treatment for individuals at a secure residential recovery facility, regardless of a previous order of hospitalization, and at a psychiatric residential treatment facility for youth; and

(2) update the civil commitment procedures for individuals with intellectual disabilities.

* * * Involuntary Commitment of Individuals with Mental Illness * * *

Sec. 2. 13 V.S.A. § 4822 is amended to read:

§ 4822. FINDINGS AND ORDER; PERSONS WITH A MENTAL ILLNESS

(a) If the court finds that the person is a person in need of treatment or a patient in need of further treatment as defined in 18 V.S.A. § 7101, the court shall issue an order of commitment directed to the Commissioner of Mental Health that shall admit the person to the care and custody of the Department of Mental Health for ~~an indeterminate~~ a period of 90 days. In any case involving personal injury or threat of personal injury, the committing court may issue an order requiring a court hearing before a person committed under this section may be discharged from custody.

* * *

(c)(1) Notwithstanding the provisions of subsection (b) of this section, at least 10 days prior to the proposed discharge of any person committed under this section, the Commissioner of Mental Health shall give notice of the

discharge to the committing court and State's Attorney of the county where the prosecution originated. In all cases requiring a hearing prior to discharge of a person found incompetent to stand trial under section 4817 of this title, the hearing shall be conducted by the committing court issuing the order under that section. In all other cases, when the committing court orders a hearing under subsection (a) of this section or when, in the discretion of the Commissioner of Mental Health, a hearing should be held prior to the discharge, the hearing shall be held in the Family Division of the Superior Court to determine if the committed person is no longer a person in need of treatment or a patient in need of further treatment as set forth in subsection (a) of this section. Notice of the hearing shall be given to the Commissioner, the State's Attorney of the county where the prosecution originated, the committed person, and the person's attorney. Prior to the hearing, the State's Attorney may enter an appearance in the proceedings and may request examination of the patient by an independent psychiatrist, who may testify at the hearing.

(2)(A) This subdivision (2) shall apply when a person is committed to the care and custody of the Commissioner of Mental Health under this section after having been found:

(i) not guilty by reason of insanity; or

(ii) incompetent to stand trial, provided that the person's criminal case has not been dismissed.

(B)(i) When a person has been committed under this section, the Commissioner shall provide notice to the State's Attorney of the county where the prosecution originated or to the Office of the Attorney General if that office prosecuted the case:

(I) at least 10 days prior to discharging the person from:

(aa) the care and custody of the Commissioner; or

(bb) a hospital or a secure residential recovery facility to the community on an order of nonhospitalization pursuant to 18 V.S.A. § 7618;

(II) at least 10 days prior to the expiration of a commitment order issued under this section if the Commissioner does not seek continued treatment; or

(III) any time that the person elopes from the custody of the Commissioner.

(ii) When the State's Attorney or Attorney General receives notice under subdivision (i) of this subdivision (B), the Office shall provide notice of the action to any victim of the offense for which the person has been charged

who has not opted out of receiving notice. A victim receiving notice pursuant to this subdivision (ii) has the right to submit a victim impact statement to the Family Division of the Superior Court in writing or through the State’s Attorney or Attorney General’s office.

(iii) As used in this subdivision (B), “victim” has the same meaning as in section 5301 of this title.

* * *

Sec. 3. 18 V.S.A. § 7101 is amended to read:

§ 7101. DEFINITIONS

As used in this part of this title, the following words, unless the context otherwise requires, shall have the following meanings:

* * *

(31) “Department” means the Department of Mental Health.

(32) “Psychiatric residential treatment facility for youth” means a non-hospital inpatient facility that serves individuals between 12 and 21 years of age with complex mental health conditions under the direction of a physician.

(33) “Secure residential recovery facility” means a residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11), for an individual in need of treatment within a secure setting for an extended period of time. “Secure,” when describing a secure residential recovery facility, means that the residents can be physically prevented from leaving the facility by means of locking devices or other mechanical or physical mechanisms.

Sec. 4. 18 V.S.A. § 7253 is amended to read:

§ 7253. CLINICAL RESOURCE MANAGEMENT AND OVERSIGHT

The Commissioner of Mental Health, in consultation with health care providers as defined in section 9432 of this title, including designated hospitals, designated agencies, individuals with mental conditions or psychiatric disabilities, and other stakeholders, shall design and implement a clinical resource management system that ensures the highest quality of care and facilitates long-term, sustained recovery for individuals in the custody of the Commissioner.

(1) For the purpose of coordinating the movement of individuals across the continuum of care to the most appropriate services, the clinical resource management system shall:

* * *

(J) Ensure that individuals under the custody of the Commissioner being served in ~~a designated hospitals~~ hospital, ~~an intensive residential recovery facilities~~ facility, ~~a psychiatric residential treatment facility for youth~~, and ~~the~~ a secure residential recovery facility shall have access to a mental health patient representative. The patient representative shall advocate for persons receiving services and shall also foster communication between persons receiving services and health care providers. The Department of Mental Health shall contract with an independent, peer-run organization to staff the full-time equivalent of a representative of persons receiving services.

* * *

Sec. 5. 18 V.S.A. § 7255 is amended to read:

§ 7255. SYSTEM OF CARE

The Commissioner of Mental Health shall coordinate a geographically diverse system and continuum of mental health care throughout the State that shall include at least the following:

- (1) comprehensive and coordinated community services, including prevention, to serve children, families, and adults at all stages of mental condition or psychiatric disability;
- (2) peer services, which may include:
 - (A) a warm line;
 - (B) peer-provided transportation services;
 - (C) peer-supported crisis services; and
 - (D) peer-supported hospital diversion services;
- (3) alternative treatment options for individuals seeking to avoid or reduce reliance on medications;
- (4) recovery-oriented housing programs;
- (5) intensive residential recovery facilities;
- (6) appropriate and adequate psychiatric inpatient capacity for voluntary patients;
- (7) appropriate and adequate psychiatric inpatient capacity for involuntary inpatient treatment services, including persons receiving treatment through court order from a civil or criminal court; ~~and~~
- (8) a secure residential recovery facility; and

(9) a psychiatric residential treatment facility for youth.

Sec. 6. 18 V.S.A. § 7256 is amended to read:

§ 7256. REPORTING REQUIREMENTS

Notwithstanding 2 V.S.A. § 20(d), the Department of Mental Health shall report annually on or before January 15 to the Senate Committee on Health and Welfare and the House Committee on ~~Human Services~~ Health Care regarding the extent to which individuals with a mental health condition or psychiatric disability receive care in the most integrated and least restrictive setting available. The Department shall consider measures from a variety of sources, including the Joint Commission, the National Quality Forum, the Centers for Medicare and Medicaid Services, the National Institute of Mental Health, and the Substance Abuse and Mental Health Services Administration. The report shall address:

- (1) use of services across the continuum of mental health services;
- (2) adequacy of the capacity at each level of care across the continuum of mental health services;
- (3) individual experience of care and satisfaction;
- (4) individual recovery in terms of clinical, social, and legal results;
- (5) performance of the State's mental health system of care as compared to nationally recognized standards of excellence;
- (6) ways in which patient autonomy and self-determination are maximized within the context of involuntary treatment and medication;
- (7) the number of petitions for involuntary medication filed by the State pursuant to section 7624 of this title and the outcome in each case;
- (8) barriers to discharge from mental health inpatient and secure residential levels of care, including recommendations on how to address those barriers;
- (9) performance measures that demonstrate results and other data on individuals for whom petitions for involuntary medication are filed; and
- (8)(10) progress on alternative treatment options across the system of care for individuals seeking to avoid or reduce reliance on medications, including supported withdrawal from medications.

Sec. 7. 18 V.S.A. § 7257 is amended to read:

§ 7257. REPORTABLE ADVERSE EVENTS

(a) An acute inpatient hospital, an intensive residential recovery facility, a designated agency, a psychiatric residential treatment facility for youth, or a secure residential recovery facility shall report to the Department of Mental Health instances of death or serious bodily injury to individuals with a mental condition or psychiatric disability in the custody or temporary custody of the Commissioner.

* * *

Sec. 7a. 18 V.S.A. § 7259 is amended to read:

§ 7259. MENTAL HEALTH CARE OMBUDSMAN

* * *

(d) The Department of Mental Health shall provide any reportable adverse events reported pursuant to section 7257 of this title and a copy of the certificate of need for all emergency involuntary procedures performed on a person in the custody or temporary custody of the Commissioner to the Office of the Mental Health Care Ombudsman on a monthly basis.

Sec. 8. 18 V.S.A. § 7260 is added to read:

§ 7260. PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY FOR YOUTH

(a) A person or governmental entity shall not establish, maintain, or operate a psychiatric residential treatment facility for youth without first obtaining a license from the Department of Health in accordance with this section.

(b) Upon receipt of the application for a license, the Department of Health shall issue a license if it determines that the applicant and the proposed psychiatric residential treatment facility for youth meet the following minimum standards:

(1) The applicant shall be a nonprofit entity that demonstrates the capacity to operate a psychiatric residential treatment facility for youth in accordance with rules adopted by the Department of Health and in a manner that ensures person-centered care and resident dignity.

(2) The applicant shall maintain certification from the Centers for Medicare and Medicaid Services under 42 C.F.R. §§ 441.151–182.

(3) The applicant shall maintain accreditation by the Joint Commission or other accrediting organization with comparable standards recognized by the Commissioner of Mental Health.

(4) The applicant shall fully comply with standards for health, safety, and sanitation as required by State law, including standards set forth by the State Fire Marshal and the Department of Health, and municipal ordinance.

(5) Residents admitted to a psychiatric residential treatment facility for youth shall be under the care of physician licensed pursuant to 26 V.S.A. chapter 23 or 33.

(6) The psychiatric residential treatment facility for youth, including the buildings and grounds, shall be subject to inspection by the Department of Disabilities, Aging, and Independent Living, its designees, and other authorized entities at all times.

(7) The applicant shall have a clear process for responding to resident complaints, including:

(A) the designation of patient representative pursuant to section 7352 of this title;

(B) a method by which each patient shall be made aware of the compliant procedure;

(C) an appeals mechanism within a psychiatric residential treatment facility for youth;

(D) a published time frame for processing and resolving complaints and appeals within a psychiatric residential treatment facility for youth; and

(E) periodic reporting to the Department of Health of the nature of complaints filed and action taken.

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

(d) Once licensed, a psychiatric residential treatment facility for youth shall be among the placement options for individuals committed to the custody of the Commissioner under an order of nonhospitalization.

(e) The Department of Health shall adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this section. Rules pertaining to emergency involuntary procedures shall:

(1) be identical to those rules adopted by the Department of Mental Health governing the use of emergency involuntary procedures in psychiatric inpatient units;

(2) require that a certificate of need for all emergency involuntary procedures performed at the psychiatric residential treatment facility for youth be submitted to the Department and the Mental Health Care Ombudsman in the same manner and time frame as required for hospitals; and

(3) require that data regarding the use of emergency involuntary procedures be submitted in accordance with the requirements of the Department.

(f) The Department of Health, after notice and opportunity for a hearing to the applicant or licensee, is authorized to deny, suspend, or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this section. The notice shall be served by registered mail or by personal service setting forth the reasons for the proposed action and fixing a date not less than 60 days from the date of the mailing or service, at which the applicant or licensee shall be given an opportunity for a hearing. After the hearing, or upon default of the applicant of licensee, the Department of Health shall file its findings of fact and conclusions of law. A copy of the findings and decision shall be sent by registered mail or served personally upon the applicant or licensee. The procedure governing hearings authorized by the section shall be in accordance with the usual and customary rules for hearing.

Sec. 9. 18 V.S.A. § 7503 is amended to read:

§ 7503. APPLICATION FOR VOLUNTARY ADMISSION

(a) Any person 14 years of age or over may apply for voluntary admission to a designated hospital or psychiatric residential treatment facility for youth for examination and treatment.

(b) Before the person may be admitted as a voluntary patient, the person shall give consent in writing on a form adopted by the Department. The consent shall include a representation that:

(1) the person understands that treatment will involve inpatient status or residence at a psychiatric residential treatment facility for youth;

(2) the person desires to be admitted to ~~the~~ a hospital or a psychiatric residential treatment facility for youth, respectively;

(3) the person consents to admission voluntarily, without any coercion or duress; and

(4) the person understands that inpatient treatment or residence at a psychiatric residential treatment facility for youth may be on a locked unit, and a requested discharge may be deferred if the treating physician determines that the person is a person in need of treatment pursuant to section 7101 of this title.

(c) If the person is under 14 years of age, ~~he or she~~ the person may be admitted as a voluntary patient if ~~he or she~~ the person consents to admission, as provided in subsection (b) of this section, and if a parent or guardian makes written application.

Sec. 9a. 18 V.S.A. § 7509 is amended to read:

§ 7509. TREATMENT; RIGHT OF ACCESS

(a) Upon admission to ~~the~~ a hospital, secure residential recovery facility, or psychiatric residential treatment facility for youth pursuant to section 7503, 7508, 7617, or 7624 of this title, the person shall be treated with dignity and respect and shall be given such medical and psychiatric treatment as is indicated.

* * *

(c) The person shall be requested to furnish the names of persons ~~he or she~~ that the person may want notified of ~~his or her~~ the person's hospitalization or residence and kept informed of ~~his or her~~ the person's status. The head of the hospital shall see that such persons are notified of the status of the patient person, how ~~he or she~~ the person may be contacted and visited, and how they may obtain information concerning ~~him or her~~ the person.

Sec. 9b. 18 V.S.A. § 7511 is amended to read:

§ 7511. TRANSPORTATION

(a) The Commissioner shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a person subject to this chapter to and from any ~~inpatient setting~~ hospital, secure residential recovery facility, or psychiatric residential treatment facility for youth under the jurisdiction of the Commissioner in any manner that:

- (1) prevents physical and psychological trauma;
- (2) respects the privacy of the individual; and
- (3) represents the least restrictive means necessary for the safety of the patient.

* * *

Sec. 10. 18 V.S.A. § 7612 is amended to read:

§ 7612. APPLICATION FOR INVOLUNTARY TREATMENT

(a) An interested party may, by filing a written application, commence proceedings for the involuntary treatment of an individual by judicial process.

* * *

(d) The application shall contain:

(1) The name and address of the applicant.

(2) A statement of the current and relevant facts upon which the allegation of mental illness and need for treatment is based. The application shall be signed by the applicant under penalty of perjury.

(e) The application shall be accompanied by:

(1) a certificate of a licensed physician, which shall be executed under penalty of perjury stating that the physician has examined the proposed patient within five days after the date the petition is filed and is of the opinion that the proposed patient is a person in need of treatment, including the current and relevant facts and circumstances upon which the physician's opinion is based; or

(2) a written statement by the applicant that the proposed patient refused to submit to an examination by a licensed physician.

(f) Before an examining physician completes the certificate of examination, ~~he or she~~ the examining physician shall consider available alternative forms of care and treatment that might be adequate to provide for the person's needs without requiring hospitalization. The examining physician shall document on the certificate the specific alternative forms of care and treatment that ~~he or she~~ the examining physician considered and why those alternatives were deemed inappropriate, including information on the availability of any appropriate alternatives.

(g) If the Commissioner seeks to have the patient receive treatment in a secure residential recovery facility or a psychiatric residential treatment facility for youth, the application for an order authorizing treatment shall expressly state that such treatment is being sought. The application shall contain, in addition to the statements required by subsections (d) and (e) of this section, a statement setting forth the reasons for the Commissioner's determination that clinically appropriate treatment for the patient's condition can be provided safely only in a secure residential recovery facility or a psychiatric residential treatment facility for youth, respectively.

Sec. 11. 18 V.S.A. § 7618 is amended to read:

§ 7618. ORDER; NONHOSPITALIZATION

(a) If the court finds that a treatment program other than hospitalization is adequate to meet the person's treatment needs, the court shall order the person to receive whatever treatment other than hospitalization is appropriate for a period of 90 days. If the treatment plan proposed by the Commissioner is for a secure residential recovery facility or a psychiatric residential treatment facility for youth, the court may at any time, on its own motion or on a motion of an interested party, review the need for treatment at the secure residential recovery facility or the psychiatric residential treatment facility for youth, respectively.

(b) If at any time during the specified period it comes to the attention of the court either that the patient is not complying with the order or that the alternative treatment has not been adequate to meet the patient's treatment needs, the court may, after proper hearing:

(1) consider other alternatives, modify its original order, and direct the patient to undergo another program of alternative treatment for the remainder of the 90-day period; or

(2) enter a new order directing that the patient be hospitalized for the remainder of the 90-day period.

Sec. 12. 18 V.S.A. § 7620 is amended to read:

§ 7620. APPLICATION FOR CONTINUED TREATMENT

* * *

(d) If the Commissioner seeks to have the patient receive the further treatment in a secure residential recovery facility or a psychiatric residential treatment facility for youth, the application for an order authorizing continuing treatment shall expressly state that such treatment is being sought. The application shall contain, in addition to the statements required by subsection (b) of this section, a statement setting forth the reasons for the Commissioner's determination that clinically appropriate treatment for the patient's condition can be provided safely only in a secure residential recovery facility or a psychiatric residential treatment facility for youth, respectively.

~~(e) As used in this chapter:~~

~~(1) "Secure," when describing a residential facility, means that the residents can be physically prevented from leaving the facility by means of locking devices or other mechanical or physical mechanisms.~~

~~(2) “Secure residential recovery facility” means a residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11), for an individual who no longer requires acute inpatient care but who does remain in need of treatment within a secure setting for an extended period of time. A secure residential recovery facility shall not be used for any purpose other than the purposes permitted by this section.~~

Sec. 13. 18 V.S.A. § 7621 is amended to read:

§ 7621. HEARING ON APPLICATION FOR CONTINUED TREATMENT;
ORDERS

* * *

(c) If the court finds that the patient is a patient in need of further treatment but does not require hospitalization, it shall order nonhospitalization for up to one year. If the treatment plan proposed by the Commissioner for a patient in need of further treatment includes admission to a secure residential recovery facility or a psychiatric residential treatment facility for youth, the court may at any time, on its own motion or on motion of an interested party, review the need for treatment at the secure residential recovery facility or the psychiatric residential treatment facility for youth, respectively.

* * *

Sec. 14. 18 V.S.A. § 7624 is amended to read:

§ 7624. APPLICATION FOR INVOLUNTARY MEDICATION

(a) The Commissioner may commence an action for the involuntary medication of a person who is refusing to accept psychiatric medication and meets any one of the following ~~six~~ conditions:

(1) has been placed in the Commissioner’s care and custody pursuant to section 7619 of this title or subsection 7621(b) of this title;

(2) has previously received treatment under an order of hospitalization and is currently under an order of nonhospitalization, ~~including a person on an order of nonhospitalization who resides in a secure residential recovery facility;~~

(3) has been committed to the custody of the Commissioner on an order of nonhospitalization and has been placed at a secure residential recovery facility;

(4) has been committed to the custody of the Commissioner of Corrections as a convicted felon and is being held in a correctional facility that is a designated facility pursuant to section 7628 of this title and for whom the

Departments of Corrections and of Mental Health have determined jointly that involuntary medication would be appropriate pursuant to 28 V.S.A. § 907(4)(H);

~~(4)~~(5) has an application for involuntary treatment pending for which the court has granted a motion to expedite pursuant to subdivision 7615(a)(2)(A)(i) of this title;

~~(5)~~(6)(A) has an application for involuntary treatment pending;

(B) waives the right to a hearing on the application for involuntary treatment until a later date; and

(C) agrees to proceed with an involuntary medication hearing without a ruling on whether ~~he or she~~ the person is a person in need of treatment; or

~~(6)~~(7) has had an application for involuntary treatment pending pursuant to subdivision 7615(a)(1) of this title for more than 26 days without a hearing having occurred and the treating psychiatrist certifies, based on specific behaviors and facts set forth in the certification, that in ~~his or her~~ the psychiatrist's professional judgment there is good cause to believe that:

(A) additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence; and

(B) serious deterioration of the person's mental condition is occurring.

(b)(1) Except as provided in subdivisions (2), ~~(3)~~(4), and ~~(4)~~(5) of this subsection, an application for involuntary medication shall be filed in the Family Division of the Superior Court in the county in which the person is receiving treatment.

(2) If the application for involuntary medication is filed pursuant to subdivision ~~(a)~~(4) ~~(a)~~(5) of this section:

(A) the application shall be filed in the county in which the application for involuntary treatment is pending; and

(B) the court shall consolidate the application for involuntary treatment with the application for involuntary medication and rule on the application for involuntary treatment before ruling on the application for involuntary medication.

(3) If the application for involuntary medication is filed pursuant to subdivision ~~(a)~~(5)~~(6)~~ or ~~(a)~~(6)~~(7)~~ of this section, the application shall be filed in the county in which the application for involuntary treatment is pending.

(4) Within 72 hours of the filing of an application for involuntary medication pursuant to subdivision (a)(6)(7) of this section, the court shall determine, based solely upon a review of the psychiatrist's certification and any other filings, whether the requirements of that subdivision have been established. If the court determines that the requirements of subdivision (a)(6)(7) of this section have been established, the court shall consolidate the application for involuntary treatment with the application for involuntary medication and hear both applications within 10 days after the date that the application for involuntary medication is filed. The court shall rule on the application for involuntary treatment before ruling on the application for involuntary medication. Subsection 7615(b) of this title shall apply to applications consolidated pursuant to this subdivision.

* * *

Sec. 15. 18 V.S.A. § 7628 is amended to read:

§ 7628. PROTOCOL

The Department of Mental Health shall develop and adopt by rule a strict protocol to ensure the health, safety, dignity, and respect of patients subject to administration of involuntary psychiatric medications in any designated hospital or secure residential recovery facility. This protocol shall be followed by all designated hospitals and secure residential recovery facilities administering involuntary psychiatric medications.

Sec. 15a. 18 V.S.A. § 7701 is amended to read:

§ 7701. NOTICE OF RIGHTS

~~The head of a~~ A hospital, secure residential recovery facility, and psychiatric residential treatment facility for youth shall provide reasonable means and arrangements, including the posting of excerpts from relevant statutes, for informing patients of their right to discharge and other rights and for assisting them in making and presenting requests for discharge or for application to have the patient's status changed from involuntary to voluntary.

Sec. 16. 18 V.S.A. § 7703 is amended to read:

§ 7703. TREATMENT

* * *

(b) The Department shall establish minimum standards for adequate treatment as provided in this section, including requirements that, when possible, psychiatric unit staff be used as the primary source to implement emergency involuntary procedures such as seclusion and restraint. The Department shall oversee and collect information and report on data regarding

the use of emergency involuntary procedures for patients admitted to a psychiatric unit, a secure residential recovery facility, or a psychiatric residential treatment facility for youth, regardless of whether the patient is under the care and custody of the Commissioner.

* * * Policies Applicable to the Secure Residential Recovery Facility * * *

Sec. 17. RULEMAKING; SECURE RESIDENTIAL RECOVERY FACILITY

On or before August 1, 2024, the Commissioner of Disabilities, Aging, and Independent Living, in consultation with the Commissioner of Mental Health, shall file permanent proposed rule amendments with the Secretary of State pursuant to 3 V.S.A. § 836(a)(2) to the Department of Disabilities, Aging, and Independent Living, Licensing and Operating Regulations for Therapeutic Community Residences (CVR 13-110-12) for the purpose of amending the secure residential recovery facility section of the rule. Prior to the permanent rules taking effect, the Department shall adopt similar emergency rules that shall be deemed to have met the standard for emergency rulemaking in 3 V.S.A. § 844. Both the permanent and emergency rules shall:

(1) authorize the use of emergency involuntary procedures at a secure residential recovery facility in a manner identical to that required in rules adopted by the Department of Mental Health governing the use of emergency involuntary procedures in psychiatric inpatient units;

(2) require that a certificate of need for all emergency involuntary procedures performed at a secure residential recovery facility be submitted to the Department and the Mental Health Care Ombudsman in the same manner and time frame as required for hospitals; and

(3) authorize the administration of involuntary medication at a secure residential recovery facility in a manner identical to that required in rules adopted by the Department of Mental Health governing the use of the administration of involuntary medication in psychiatric inpatient units.

Sec. 17a. JUDICIAL REVIEW; RESIDENTS OF SECURE RESIDENTIAL RECOVERY FACILITY

Between July 1, 2024 and July 1, 2025, an individual who has been committed to the custody of the Commissioner at the secure residential recovery facility continuously since June 30, 2024 or earlier may apply to the Family Division of the Superior Court for a review as to whether the secure residential recovery facility continues to be the most appropriate and least restrictive setting necessary to serve the individual.

Sec. 18. 2021 Acts and Resolves No. 50, Sec. 3(c) is amended to read:

(c) The amount appropriated in subdivision (a)(1) of this section shall be used to construct a 16-bed Secure Residential Recovery Facility on Parcel ID# 200-5-003-001 as designated on the Town of Essex’s Tax Parcel Maps for transitional support for individuals who are being discharged from inpatient psychiatric care. Through interior fit-up, versus building redesign, the 16-bed facility shall include two eight-bed wings designed with the capability to allow for separation of one wing from the main section of the facility, if necessary. Both wings shall be served by common clinical and activity spaces. ~~Neither wing shall include a locked seclusion area, and the facility shall not use emergency involuntary procedures.~~ Outdoor space shall be adequate for exercise and other activities but not less than 10,000 square feet.

Sec. 19. CERTIFICATE OF NEED

Notwithstanding the requirements of 18 V.S.A. chapter 221, subchapter 5, or any prior certificates of need issued pursuant to that subchapter, the secure residential recovery facility shall be authorized to:

- (1) use emergency involuntary procedures; and
- (2) accept patients under an initial commitment order.

Sec. 20. REPEAL; INVOLUNTARY MEDICATION REPORT

1998 Acts and Resolves No. 114, Sec. 5 (report) is repealed on July 1, 2024.

* * * Persons in Need of Custody, Care, and Habilitation or Continued Custody, Care, and Habilitation * * *

Sec. 21. 13 V.S.A. § 4814 is amended to read:

§ 4814. ORDER FOR EXAMINATION OF COMPETENCY

* * *

(d) Notwithstanding any other provision of law, an examination ordered pursuant to subsection (a) of this section may be conducted by a doctoral-level psychologist trained in forensic psychology and licensed under 26 V.S.A. chapter 55. ~~This subsection shall be repealed on July 1, 2024.~~

* * *

Sec. 22. 13 V.S.A. § 4816 is amended to read:

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

* * *

(b) A competency evaluation for an individual thought to have a developmental disability shall ~~include~~ be a current evaluation by a doctoral-level psychologist trained in forensic psychology and skilled in assessing individuals with developmental disabilities.

* * *

Sec. 23. 13 V.S.A. § 4817 is amended to read:

§ 4817. COMPETENCY TO STAND TRIAL; DETERMINATION

* * *

(c) If a person indicted, complained, or informed against for an alleged criminal offense, an attorney or guardian acting in the person's behalf, or the State, at any time before final judgment, raises before the court before which such person is tried or is to be tried, the issue of whether such person is incompetent to stand trial, or if the court has reason to believe that such person may not be competent to stand trial, a hearing shall be held before such court at which evidence shall be received and a finding made regarding the person's competency to stand trial. However, in cases where the court has reason to believe that such person may be incompetent to stand trial due to a mental disease or mental defect, such hearing shall not be held until an examination has been made and a report submitted by an examining psychiatrist or psychologist in accordance with sections 4814–4816 of this title.

* * *

Sec. 24. 13 V.S.A. § 4820 is amended to read:

§ 4820. HEARING REGARDING COMMITMENT

(a)(1) When a person charged on information, complaint, or indictment with a criminal offense:

~~(1) [Repealed.]~~

~~(2)(A)~~ is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to a mental disease or mental defect;

~~(3)(B)~~ is not indicted upon hearing by grand jury by reason of insanity at the time of the alleged offense, duly certified to the court; or

~~(4)(C)~~ upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense;

(2) ~~the~~ The court before which such person is tried or is to be tried for such offense, shall hold a hearing for the purpose of determining whether such person should be committed to the custody of the Commissioner of Mental

Health or Commissioner of Disabilities, Aging, and Independent Living, as appropriate. Such person may be confined in jail or some other suitable place by order of the court pending hearing for a period not exceeding 21 days.

(b) When a person is found to be incompetent to stand trial, has not been indicted by reason of insanity for the alleged offense, or has been acquitted by reason of insanity at the time of the alleged offense, the person shall be entitled to have counsel appointed from Vermont Legal Aid to represent the person. The Department of Mental Health and, if applicable, the Department of Disabilities, Aging, and Independent Living shall be entitled to appear and call witnesses at the proceeding.

(c) Notwithstanding any other provision of law, a commitment order issued pursuant to this chapter shall not modify or vacate orders concerning conditions of release or bail issued pursuant to chapter 229 of this title, and the commitment order shall remain in place unless expressly modified, provided that inpatient treatment shall be permitted if a person who is held without bail is found to be in need of inpatient treatment under this chapter.

Sec. 25. 13 V.S.A. § 4823 is amended to read:

§ 4823. FINDINGS AND ORDER; PERSONS WITH AN INTELLECTUAL DISABILITY

(a) If the court finds by clear and convincing evidence that such person is a person in need of custody, care, and habilitation as defined in 18 V.S.A. § 8839, the court shall issue an order of commitment for up to one year directed to the Commissioner of Disabilities, Aging, and Independent Living for placement in a designated program in the least restrictive environment consistent with the person's need for custody, care, and habilitation of such person for an indefinite or limited period in a designated program.

(b) Such order of commitment shall have the same force and effect as an order issued under 18 V.S.A. § 8843 chapter 206, subchapter 3 and persons committed under such an order shall have the same status, and the same rights, including the right to receive care and habilitation, to be examined and discharged, and to apply for and obtain judicial review of their cases, as persons ordered committed under 18 V.S.A. § 8843 chapter 206, subchapter 3.

~~(c) Section 4822 of this title shall apply to persons proposed for discharge under this section; however, judicial proceedings shall be conducted in the Criminal Division of the Superior Court in which the person then resides, unless the person resides out of State in which case the proceedings shall be conducted in the original committing court. [Repealed.]~~

Sec. 26. 18 V.S.A. chapter 206, subchapter 3 is amended to read:

Subchapter 3. Judicial Proceeding; Persons with an Intellectual Disability
Who Present a Danger of Harm to Others

§ 8839. DEFINITIONS

As used in this subchapter:

(1) ~~“Danger of harm to others” means the person has inflicted or attempted to inflict serious bodily injury to another or has committed an act that would constitute a sexual assault or lewd or lascivious conduct with a child~~ “Commissioner” means the Commissioner of Disabilities, Aging, and Independent Living.

(2) “Designated program” means a program designated by the Commissioner as adequate to provide in an individual manner appropriate custody, care, and habilitation to persons with intellectual disabilities receiving services under this subchapter.

(3)(A) “Person in need of continued custody, care, and habilitation” means a person:

(i) who was previously found to be a person in need of custody, care, and habilitation;

(ii) who poses a danger of harm to others; and

(iii) for whom appropriate custody, care, and habilitation can be provided by the Commissioner in a designated program.

(B) As used in this subdivision (3), a danger of harm to others shall be shown by establishing that, in the time since the last order of commitment was issued, the person:

(i) has inflicted or attempted to inflict serious bodily injury to another or has committed an act that would constitute sexual conduct with a child as defined in 13 V.S.A. § 2821 or lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602 of this title; or

(ii) has exhibited behavior demonstrating that, absent treatment or programming provided by the Commissioner, there is a substantial likelihood that the person would inflict or attempt to inflict physical or sexual harm to another.

(4) “Person in need of custody, care, and habilitation” means a person:

(A) ~~a person~~ with an intellectual disability, which means significantly subaverage intellectual functioning existing concurrently with deficits in adaptive behavior that were manifest before 18 years of age;

(B) ~~who presents a danger of harm to others~~ has inflicted or attempted to inflict serious bodily injury to another or who has committed an act that would constitute sexual conduct with a child as defined in 13 V.S.A. § 2821 or lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602; and

(C) for whom appropriate custody, care, and habilitation can be provided by the Commissioner in a designated program.

(5) “Victim” has the same meaning as in 13 V.S.A. § 5301(4).

§ 8840. JURISDICTION AND VENUE

~~Proceedings brought under this subchapter for commitment to the Commissioner for custody, care, and habilitation shall be commenced by petition in the Family Division of the Superior Court for the unit in which the respondent resides. [Repealed.]~~

§ 8841. PETITION; PROCEDURES

~~The filing of the petition and procedures for initiating a hearing shall be as provided in sections 8822-8826 of this title. [Repealed.]~~

§ 8842. HEARING

~~Hearings under this subchapter for commitment shall be conducted in accordance with section 8827 of this title. [Repealed.]~~

§ 8843. FINDINGS AND ORDER

~~(a) In all cases, the court shall make specific findings of fact and state its conclusions of law.~~

~~(b) If the court finds that the respondent is not a person in need of custody, care, and habilitation, it shall dismiss the petition.~~

~~(c) If the court finds that the respondent is a person in need of custody, care, and habilitation, it shall order the respondent committed to the custody of the Commissioner for placement in a designated program in the least restrictive environment consistent with the respondent’s need for custody, care, and habilitation for an indefinite or a limited period. [Repealed.]~~

§ 8844. LEGAL COMPETENCE

No determination that a person is in need of custody, care, and habilitation or in need of continued custody, care, and habilitation and no order authorizing commitment shall lead to a presumption of legal incompetence.

§ 8845. JUDICIAL REVIEW PETITION AND ORDER FOR CONTINUED CUSTODY, CARE, AND HABILITATION

~~(a) A person committed under this subchapter may be discharged from custody by a Superior judge after judicial review as provided herein or by administrative order of the Commissioner.~~

~~(b) Procedures for judicial review of persons committed under this subchapter shall be as provided in section 8834 of this title, except that proceedings shall be brought in the Criminal Division of the Superior Court in the unit in which the person resides or, if the person resides out of state, in the unit that issued the original commitment order.~~

~~(c) A person committed under this subchapter shall be entitled to a judicial review annually. If no such review is requested by the person, it shall be initiated by the Commissioner. However, such person may initiate a judicial review under this subsection after 90 days after initial commitment but before the end of the first year of the commitment.~~

~~(d) If at the completion of the hearing and consideration of the record, the court finds at the time of the hearing that the person is still in need of custody, care, and habilitation, commitment shall continue for an indefinite or limited period. If the court finds at the time of the hearing that the person is no longer in need of custody, care, and habilitation, it shall discharge the person from the custody of the Commissioner. An order of discharge may be conditional or absolute and may have immediate or delayed effect.~~

(1) If, prior to the expiration of any previous commitment order issued in accordance with 13 V.S.A. § 4823 or this subchapter, the Commissioner believes that the person is a person in need of continued custody, care, and habilitation, the Commissioner shall seek continued custody, care, and habilitation in the Family Division of the Superior Court. The Commissioner shall, by filing a written petition, commence proceedings for the continued custody, care, and habilitation of a person. The petition shall state the current and relevant facts upon which the person's alleged need for continued custody, care, and habilitation is predicated.

(2) Any commitment order for custody, care, and habilitation or continued custody, care, and habilitation issued in accordance with 13 V.S.A. § 4823 or this subchapter shall remain in force pending the court's decision on the petition.

(b) Upon receipt of the petition for the continued custody, care, and habilitation, the court shall hold a hearing within 14 days after the date of filing. The hearing may be continued for good cause shown.

(c) If the court finds by clear and convincing evidence at the time of the hearing that the person is a person in need of continued custody, care, and habilitation, it shall issue an order of commitment for up to one year in a designated program in the least restrictive environment consistent with the person's need for continued custody, care, and habilitation. If the court finds at the time of the hearing that the person is no longer in need of continued custody, care, and habilitation, it shall discharge the person from the custody of the Commissioner in accordance with section 8847 of this subchapter. In determining whether a person is a person in need of continued custody, care, and habilitation, the court shall consider the degree to which the person has previously engaged in or complied with the treatment and programming provided by the Commissioner.

§ 8846. RIGHT TO INITIATE REVIEW

A person may initiate a judicial review in the Family Division of the Superior Court or an administrative review under this subchapter at any time after 90 days following a current order of commitment or continued commitment and not earlier than six months after the filing of a previous application under this section. If the court or Commissioner finds that the person is not a person in need of custody, care, and habilitation or continued custody, care, and habilitation, the person shall be discharged from the custody of the Commissioner pursuant to section 8847 of this subchapter.

§ 8847. DISCHARGE FROM COMMITMENT

(a) A person committed under 13 V.S.A. § 4823 or this subchapter may be discharged as follows:

(1) by a Family Division Superior Court judge after review of an order of custody, care, and habilitation or an order of continued custody, care, and habilitation if the court finds that a person is not a person in need of custody, care, and habilitation or continued custody, care, and habilitation, respectively; or

(2) by administrative order of the Commissioner regarding an order of custody, care, and habilitation or an order of continued custody, care, and habilitation if the Commissioner determines that a person is no longer a person in need of custody, care, and habilitation or continued custody, care, and habilitation, respectively.

(b) A judicial or administrative order of discharge may be conditional or absolute.

(c)(1) When a person is under an order of commitment pursuant to 13 V.S.A. § 4823 or continued commitment pursuant to this subchapter, the Commissioner shall provide notice to the State's Attorney of the county where the prosecution originated or to the Office of the Attorney General if that Office prosecuted the case:

(A) at least 10 days prior to discharging a person from commitment or continued commitment;

(B) at least 10 days prior to the expiration of a commitment or continued commitment order if the Commissioner does not seek an order of continued custody, care, and habilitation; or

(C) any time that the person elopes from custody of the Commissioner and cannot be located, and there is reason to believe the person may be lost or poses a risk of harm to others.

(2) When the State's Attorney or Attorney General receives notice under subdivision (1) of this subsection, the Office shall provide notice of the action to any victim of the offense for which the person has been charged who has not opted out of receiving notice. A victim receiving notice pursuant to this subdivision has the right to submit a victim impact statement to the Family Division of the Superior Court in writing or through the State's Attorney's or Attorney General's Office.

(d) Whenever a person is subject to a judicial or administrative discharge from commitment, the Criminal Division of the Superior Court shall retain jurisdiction over the person's underlying charge and any orders holding the person without bail or concerning bail, and conditions of release shall remain in place. Those orders shall be placed on hold while a person is in the custody, care, and habilitation or continued custody, care, and habilitation of the Commissioner. When a person is discharged from the Commissioner's custody, care, and habilitation to a correctional facility, the custody of the Commissioner shall cease when the person enters the correctional facility.

§ ~~8846~~ 8848. RIGHT TO COUNSEL

Persons subject to commitment ~~or judicial review under~~, continued commitment, or self-initiated review pursuant to section 8846 of this subchapter shall have a right to counsel as provided in section 7111 of this title.

* * * Proposal for Enhanced Services * * *

Sec. 27. INDIVIDUALS WITH INTELLECTUAL DISABILITIES;
ENHANCED SERVICES

On or before December 1, 2024, the Department of Disabilities, Aging, and Independent Living, in consultation with Disability Rights Vermont, Vermont Legal Aid, Developmental Services State Program Standing Committee, and Vermont Care Partners, may submit an alternative proposal to the forensic facility to the House Committee on Human Services and to the Senate Committee on Health and Welfare for enhanced community-based services for those individuals committed to the Commissioner who require custody, care, and habilitation in a secure setting for brief periods of time. A proposal submitted pursuant to this subsection shall address required resources, including funding and staffing, and be eligible for funding through the Global Commitment Home- and Community-Based Services Waiver.

* * * Fiscal Estimate of Competency Restoration Program * * *

Sec. 28. REPORT; COMPETENCY RESTORATION PROGRAM; FISCAL
ESTIMATE

On or before November 1, 2024, the Agency of Human Services shall submit a report to the House Committees on Appropriations, on Health Care, and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare that provides a fiscal estimate for the implementation of a competency restoration program operated or under contract with the Department of Mental Health. The estimate shall include:

(1) whether and how to serve individuals with an intellectual disability in a competency restoration program;

(2) varying options dependent upon which underlying charges are eligible for court-ordered competency restoration; and

(3) costs associated with establishing a residential program where court-ordered competency restoration programming may be performed on an individual who is neither in the custody of the Commissioner of Mental Health pursuant to 13 V.S.A. § 4822 nor in the custody of the Commissioner of Disabilities, Aging, and Independent Living pursuant to 13 V.S.A. § 4823.

* * * Effective Date * * *

Sec. 29. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

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

An act relating to civil commitment procedures at a secure residential recovery facility and a psychiatric residential treatment facility for youth and civil commitment procedures for individuals with an intellectual disability

Proposal of amendment to House proposal of amendment to H. S. 192 to be offered by Senators Lyons, Gulick, Hardy, Weeks and Williams

Senators Lyons, Gulick, Hardy, Weeks and Williams move that the Senate concur in the House proposal of amendment with a proposal of amendment as follows

First: By striking out Sec. 1, purpose, in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. PURPOSE

It is the purpose of this act to:

(1) enable the Commissioner of Mental Health to seek treatment for individuals at a secure residential recovery facility, regardless of a previous order of hospitalization, and at a psychiatric residential treatment facility for youth, without precluding the future development of a forensic facility;

(2) update the civil commitment procedures for individuals with intellectual disabilities; and

(3) authorize the Department of Disabilities, Aging, and Independent Living to propose alternative options for a secure community-based residence or residences to treat individuals who have been charged with a crime and found incompetent to stand trial or adjudicated not guilty by reason of insanity, who are in the Commissioner's custody, and who require a more secure level of care than is currently available, without precluding the future development of a forensic facility.

Second: By striking out Sec. 27, individuals with intellectual disabilities; enhanced services, in its entirety and inserting in lieu thereof a new Sec. 27 to read as follows:

Sec. 27. INDIVIDUALS WITH INTELLECTUAL DISABILITIES;
SECURE, COMMUNITY-BASED RESIDENCES

(a) The Department of Disabilities, Aging, and Independent Living shall propose alternative options, including building and staffing cost estimates, for a secure community-based residence or residences to treat individuals who have been charged with a crime and found incompetent to stand trial or adjudicated not guilty by reason of insanity, who are in the Commissioner's custody, and who require a more secure level of care than is currently available. The Commissioner shall ensure that a secure community-based residence proposed under this section would provide appropriate custody, care, and habilitation in a designated program that provides appropriate staffing and services levels in the least restrictive setting. The alternative options shall be developed in consultation with interested parties, including Disability Rights Vermont, Vermont Legal Aid, Developmental Services State Program Standing Committee, Vermont Care Partners, and Green Mountain Self Advocates with final placement determinations made by the Commissioner. The alternative options may be eligible for funding through the Global Commitment Home- and Community-Based Services Waiver. Prior to seeking funding for constructing, purchasing, or contracting for a secure community-based residence for individuals in the Commissioner's custody, the Department shall propose to the House Committees on Human Services and on Judiciary and the Senate Committees on Health and Welfare and on Judiciary any necessary statutory modifications to uphold due process requirements.

(b) As used in this section:

(1) "Designated program" has the same meaning as in 18 V.S.A. § 8839.

(2) "Secure" means that residents may be physically prevented from leaving the residence by means of locking devices or other mechanical or physical mechanisms.

S. 195

An act relating to how a defendant's criminal record is considered in imposing conditions of release

The House proposes to the Senate 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. § 7551 is amended to read:

§ 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND APPEARANCE BONDS

(a) Bonds; generally. A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the Criminal Division of the Superior Court where the prosecution is pending and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) Limitation on imposition of bail, secured appearance bonds, and appearance bonds.

(1) Except as provided in subdivision (2) of this subsection, no bail, secured appearance bond, or appearance bond may be imposed:

(A) at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure; or

(B) at the initial appearance or upon the temporary release pursuant to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title.

(2) In the event the court finds that imposing bail is necessary to mitigate the risk of flight from prosecution for a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title, the court may impose bail in a maximum amount of \$200.00. The \$200.00 limit shall not apply to a person who the court determines has engaged in flight from prosecution in accordance with subdivision 7576(9) or subdivision 7554(a)(1) of this title.

(3) This subsection shall not be construed to restrict the court's ability to impose conditions on such persons to reasonably mitigate the risk of flight from prosecution or to reasonably protect the public in accordance with section 7554 of this title.

Sec. 2. 13 V.S.A. § 7554 is amended to read:

§ 7554. RELEASE PRIOR TO TRIAL

(a) Release; conditions of release. Any person charged with an offense, other than a person held without bail under section 7553 or 7553a of this title, shall at ~~his or her~~ the person's appearance before a judicial officer be ordered released pending trial in accordance with this section.

(1) The defendant shall be ordered released on personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer unless the judicial officer determines that such a release will not reasonably mitigate the risk of flight from prosecution as required. In determining whether the defendant presents a risk of flight from prosecution, the judicial officer shall consider, in addition to any other factors, the seriousness of the offense charged; the number of offenses with which the person is charged; whether, at the time of the current offense or arrest, the defendant was released on conditions or personal recognizance, on probation, furlough, parole, or other release pending trial, sentencing, appeal, or completion of a sentence for an offense under federal or state law; and whether, in connection with a criminal prosecution, the defendant is compliant with court orders or has failed to appear at a court hearing. If the judicial officer determines that the defendant presents a risk of flight from prosecution, the officer shall, either in lieu of or in addition to the methods of release in this section, impose the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably mitigate the risk of flight of the defendant as required:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise ~~him or her~~ the defendant if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel or association of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) Upon consideration of the defendant's financial means, require the execution of a secured appearance bond in a specified amount and the deposit with the clerk of the court, in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the appearance of the defendant as required.

(E) Upon consideration of the defendant's financial means, require the execution of a surety bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

(F) Impose any other condition found reasonably necessary to mitigate the risk of flight as required, including a condition requiring that the defendant return to custody after specified hours.

(G) [Repealed.]

(H) Place the defendant in the pretrial supervision program pursuant to section 7555 of this title, provided that the defendant meets the criteria identified in subdivision 7551(c)(1) of this title.

(I) Place the defendant in the home detention program pursuant to section 7554b of this title.

(2) If the judicial officer determines that conditions of release imposed to mitigate the risk of flight will not reasonably protect the public, the judicial officer may impose, in addition, the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ensure protection of the public:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise ~~him or her~~ the defendant if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel, association, or place of abode of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) Impose any other condition found reasonably necessary to protect the public, except that a physically restrictive condition may only be imposed in extraordinary circumstances.

(E) Suspend the officer's duties in whole or in part if the defendant is a State, county, or municipal officer charged with violating section 2537 of this title and the court finds that it is necessary to protect the public.

(F) [Repealed.]

(G) Place the defendant in the pretrial supervision program pursuant to section 7555 of this title, provided that the defendant meets the criteria identified in subdivision 7551(c)(1) of this title.

(H) Place the defendant in the home detention program pursuant to section 7554b of this title.

(3) A judicial officer may order that a defendant not harass or contact or cause to be harassed or contacted a victim or potential witness. This order

shall take effect immediately, regardless of whether the defendant is incarcerated or released.

(b) Judicial considerations in imposing conditions of release. In determining which conditions of release to impose:

(1) In subdivision (a)(1) of this section, the judicial officer, on the basis of available information, shall take into account the nature and circumstances of the offense charged; the weight of the evidence against the accused; the accused's employment; financial resources, including the accused's ability to post bail; the accused's character and mental condition; the accused's length of residence in the community; and the accused's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

(2) In subdivision (a)(2) of this section, the judicial officer, on the basis of available information, shall take into account the nature and circumstances of the offense charged; the weight of the evidence against the accused; the accused's family ties, employment, character and mental condition, length of residence in the community, record of convictions, and record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings; whether, at the time of the current offense or arrest, the defendant was released on conditions or personal recognizance, on probation, furlough, parole, or other release pending trial, sentencing, appeal, or completion of a sentence for an offense under federal or state law; and whether, in connection with a criminal prosecution, the defendant is compliant with court orders or has failed to appear at a court hearing. Recent history of actual violence or threats of violence may be considered by the judicial officer as bearing on the character and mental condition of the accused.

(c) Order. A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any; shall inform such person of the penalties applicable to violations of the conditions of release; and shall advise ~~him or her~~ the person that a warrant for ~~his or her~~ the person's arrest ~~will~~ may be issued immediately upon any such violation.

(d) Review of conditions.

(1) A person for whom conditions of release are imposed and who is detained as a result of ~~his or her~~ the person's inability to meet the conditions of release or who is ordered released on a condition that ~~he or she~~ the person return to custody after specified hours, or the State, following a material change in circumstances, shall, within 48 hours following application, be entitled to have the conditions reviewed by a judge in the court having original

jurisdiction over the offense charged. A party applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.

(2) A person for whom conditions of release are imposed shall, within five working days following application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.

(e) Amendment of order. A judicial officer ordering the release of a person on any condition specified in this section may at any time amend the order to impose additional or different conditions of release, provided that the provisions of subsection (d) of this section shall apply.

(f) Definition. The term “judicial officer” as used in this section and section 7556 of this title ~~shall mean~~ means a clerk of a Superior Court or a Superior Court judge.

(g) Admissibility of evidence. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

(h) Forfeiture. Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security if such disposition is authorized by the court.

(i) Forms. The Court Administrator shall establish forms for appearance bonds, secured appearance bonds, surety bonds, and for use in the posting of bail. Each form shall include the following information:

(1) The bond or bail may be forfeited in the event that the defendant or witness fails to appear at any required court proceeding.

(2) The surety or person posting bond or bail has the right to be released from the obligations under the bond or bail agreement upon written application to the judicial officer and detention of the defendant or witness.

(3) The bond will continue through sentencing in the event that bail is continued after final adjudication.

(j) Juveniles. Any juvenile between 14 and 16 years of age who is charged with a listed crime as defined in subdivision 5301(7) of this title shall appear before a judicial officer and be ordered released pending trial in accordance with this section within 24 hours following the juvenile's arrest.

Sec. 3. 13 V.S.A. § 7554b is amended to read:

§ 7554b. HOME DETENTION PROGRAM

(a) Intent. It is the intent of the General Assembly that the Home Detention Program be designed to provide an alternative to incarceration and reduce the number of detainees at Vermont correctional facilities by accommodating defendants who would otherwise be incarcerated or pose a significant risk to public safety.

(b) Definition. As used in this section, "home detention" means a program of confinement and supervision that restricts a defendant to a preapproved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the Department of Corrections, including the use of passive electronic monitoring. The court may authorize scheduled absences such as for work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the Department of Corrections. A defendant who is on home detention shall remain in the custody of the Commissioner of Corrections with conditions set by the court.

~~(b)~~(c) Procedure Defendants with the inability to pay bail.

(1) Procedure. At the request of the court, the Department of Corrections, the prosecutor, or the defendant, the status of a defendant who is detained pretrial in a correctional facility for inability to pay bail after bail has been set by the court may be reviewed by the court to determine whether the defendant is appropriate for home detention. The review shall be scheduled upon the court's receipt of a report from the Department determining that the proposed residence is suitable for the use of electronic monitoring. A defendant held without bail pursuant to section 7553 or 7553a of this title shall not be eligible for release to the Home Detention Program on or after June 1, 2018. At arraignment or after a hearing, the court may order that the defendant be released to the Home Detention Program, provided that the court finds placing the defendant on home detention will reasonably assure his or her appearance in court when required mitigate the defendant's risk of flight and the proposed residence is appropriate for home detention. In making such a determination, the court shall consider:

~~(1)~~(A) the nature of the offense with which the defendant is charged;

~~(2)~~(B) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; and

~~(3)~~(C) any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

~~(e)~~(2) Failure to comply. The Department of Corrections may revoke a defendant's home detention status for an unauthorized absence or failure to comply with any other condition of the Program and shall return the defendant to a correctional facility.

(d) Defendants who violate conditions of release.

(1) Procedure. At the request of the court, the prosecutor, or the defendant, the status of a defendant who has allegedly violated conditions of release may be reviewed by the court to determine whether the defendant is appropriate for home detention. The review shall be scheduled upon the court's receipt of a report from the Department determining that the proposed residence is suitable for the use of electronic monitoring. A defendant held without bail pursuant to section 7553 or 7553a of this title shall not be eligible for release to the Home Detention Program on or after June 1, 2024. At arraignment or after a hearing, the court may order that the defendant be released to the Home Detention Program upon the court's finding that the defendant poses a significant risk to public safety, placing the defendant on home detention will reasonably mitigate such risk, and the proposed residence is appropriate for home detention. In making such a determination, the court shall consider the factors listed in subdivisions (c)(1)(A)–(C) of this section.

(2) Failure to comply. The Department of Corrections may report a defendant's unauthorized absence or failure to comply with any other condition of the Program to the prosecutor and the defendant, provided that a defendant's failure to comply with any condition of the Program for a reason other than fault on the part of the defendant shall not be reportable. To address a reported violation, the prosecutor may request:

(A) a review of conditions pursuant to section 7554 of this title;

(B) a prosecution for contempt pursuant to section 7559 of this title;

or

(C) a bail revocation hearing pursuant to section 7575 of this title.

(e) Credit for time served. A defendant shall receive credit for a sentence of imprisonment for time served in the Home Detention Program.

(f) Program support. The Department may support the monitoring operations of the Program through grants of financial assistance to, or contracts for services with, any public entity that meets the Department's requirements.

(g) Policies and procedures. The Department of Corrections shall establish written policies and procedures for the Home Detention Program to be used by the Department, any contractors or grantees that the Department engages with to assist with the monitoring operations of the Program, and to assist the courts in understanding the Program.

Sec. 4. 13 V.S.A. § 7555 is added to read:

§ 7555. PRETRIAL SUPERVISION PROGRAM

(a) Purpose. The purpose of the Pretrial Supervision Program is to assist eligible people through the use of evidence-based strategies to improve pretrial compliance with conditions of release, to coordinate and support the provision of pretrial services when appropriate, to ensure attendance at court appearances, and to decrease the potential to recidivate while awaiting trial.

(b) Definition. As used in this section, "absconded" has the same meaning as "absconding" as defined in 28 V.S.A. § 722(1)(B)–(C).

(c) Pretrial supervision.

(1) Except as provided in subsection (g) of this section, beginning on January 1, 2025, the Pretrial Supervision Program shall, if ordered by the court pursuant to subsection (d) of this section, monitor defendants who have been charged with violating a condition of release pursuant to section 7559 of this title or have not fewer than five pending dockets and pose a risk of nonappearance at court hearings, a risk of flight, or a risk of endangering the public.

(2) The Department shall assign a pretrial supervision officer to monitor defendants in a designated region of Vermont and help coordinate any pretrial services needed by the defendant. The Department shall determine the appropriate level of supervision using evidence-based screenings of those defendants eligible to be placed in the Program. The Department's supervision levels may include use of:

- (A) the Department's telephone monitoring system;
- (B) telephonic meetings with a pretrial supervision officer;
- (C) in-person meetings with a pretrial supervision officer;
- (D) electronic monitoring; or

(E) any other means of contact deemed appropriate.

(3) When placing a defendant into the Program pursuant to subsection (d) of this section, the court shall issue an order that sets the defendant's level of supervision based on the recommendations submitted by the Department of Corrections.

(d) Procedure.

(1) At arraignment or at a subsequent hearing, the prosecutor or the defendant may move, or on the court's own motion, that the defendant be reviewed by the court to determine whether the defendant is appropriate for pretrial supervision. The review shall be scheduled upon the court's receipt of a report from the Department of Corrections containing recommendations pertaining to the defendant's supervision level.

(2) A defendant is eligible for pretrial supervision if the person has:

(A) violated conditions of release pursuant to section 7559 of this title; or

(B) not fewer than five pending court dockets.

(3) After a hearing and review of the Department of Corrections' report containing the defendant's supervision level recommendations, the court may order that the defendant be released to the Pretrial Supervision Program, provided that the court finds placing the defendant under pretrial supervision will reasonably ensure the person's appearance in court when required, will reasonably mitigate the risk of flight, or reasonably ensure protection of the public. In making such a determination, the court shall consider the following:

(A) the nature of the violation of conditions of release pursuant to section 7559 of this title;

(B) the nature and circumstances of the underlying offense or offenses with which the defendant is charged;

(C) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight;

(D) any risk or undue burden to third parties or risk to public safety that may result from the placement; or

(E) any other factors that the court deems appropriate.

(e) Compliance and review.

(1) Pretrial supervision officers shall notify the prosecutor and use reasonable efforts to notify the defendant of any violations of court-imposed Program conditions committed by the defendant.

(2) Pretrial supervision officers may notify the prosecutor and use reasonable efforts to notify the defendant of any violations of Department-imposed administrative conditions committed by the defendant.

(3) Upon the motion of the prosecutor or the defendant, or on the court's own motion, a defendant's compliance with pretrial supervision conditions may be reviewed by the court.

(4) Upon submission of the pretrial supervision officer's sworn affidavit by the prosecutor, the court may issue a warrant for the arrest of a defendant who fails to report to the pretrial supervision officer, commits multiple violations of supervision requirements, or has absconded.

(f) Policies and procedures.

(1) On or before November 1, 2024, the Department of Corrections shall establish written policies and procedures for the Pretrial Supervision Program to be used by the Department and any contractors or grantees that the Department engages with to assist in the monitoring operations of the Program and to assist the courts in understanding the Program.

(2) The Department shall develop policies and procedures concerning supervision levels, evidence-based criteria for each supervision level, and the means of contact that is appropriate for each supervision level.

(g) Contingent on funding. The Pretrial Supervision Program established in this section shall operate only to the extent funds are appropriated for its operation. If the Program is not operating in a particular county, the courts shall not order pretrial supervision as a condition of release in accordance with section 7554 of this title.

(h) Program support. The Department may support the operation of the Program through grants of financial assistance to, or contracts for services with, any public entity that meets the Department's requirements.

Sec. 5. 13 V.S.A. § 7559 is amended to read:

§ 7559. RELEASE; DESIGNATION; SANCTIONS VIOLATIONS OF CONDITIONS OF RELEASE; FAILURE TO APPEAR; WARRANTLESS ARREST

~~(a) The officer in charge of a facility under the control of the department of corrections, county jail or a local lockup shall discharge any person held by him or her upon receipt of an order for release issued by a judicial officer~~

pursuant to section 7554 of this title, accompanied by the full amount of any bond or cash bail fixed by the judicial officer. The officer in charge, or a person designated by the Court Administrator, shall issue a receipt for such bond or cash bail, and shall account for and turn over such bond or cash bail to the court having jurisdiction. The State's Attorney may commence a prosecution for criminal contempt under Rule 42 of the Vermont Rules of Criminal Procedure against a person who violates a condition of release imposed under section 7554 of this title. The maximum penalty that may be imposed under this section shall be a fine of \$1,000.00 or imprisonment for six months, or both.

(b) The Court Administrator shall designate persons to set bail for any person under arrest prior to arraignment when the offense charged provides for a penalty of less than two years imprisonment or a fine of less than \$1,000.00 or both. Such persons designated by the Court Administrator shall be considered judicial officers for the purposes of sections 7554 and 7556 of this title. Upon commencement of a prosecution for criminal contempt, including when considering an afterhours request to set temporary conditions or impose bail for criminal contempt, or upon the initial appearance of the person to answer such offense, in accordance with section 7553, 7553a, 7554, or 7575 of this title, a judicial officer may continue or modify existing conditions of release or terminate release of the person.

(c) Any person who is designated by the Court Administrator under subsection (b) of this section, may refuse the designation by so notifying the Court Administrator in writing within seven days of the designation. A person who has been released pursuant to section 7554 of this title with or without bail on condition that the person appear at a specified time and place in connection with a prosecution for an offense and who without just cause fails to appear shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(d) A person who has been released pursuant to section 7554 of this title with or without bail on condition that he or she appear at a specified time and place in connection with a prosecution for an offense and who without just cause fails to appear shall be imprisoned not more than two years or fined not more than \$5,000.00, or both. Notwithstanding Rule 3 of the Vermont Rules of Criminal Procedure, a law enforcement officer may arrest a person without a warrant when the officer has probable cause to believe the person without just cause has failed to appear at a specified time and place in connection with a prosecution for an offense or has violated a condition of release relating to a restriction on travel or a condition of release that the person not directly contact, harass, or cause to be harassed a victim or potential witness.

~~(e) The State's Attorney may commence a prosecution for criminal contempt under Rule 42 of the Vermont Rules of Criminal Procedure against a person who violates a condition of release imposed under section 7554 of this title. The maximum penalty that may be imposed under this subsection shall be a fine of \$1,000.00 or imprisonment for six months, or both. Upon commencement of a prosecution for criminal contempt, the court shall review, in accordance with section 7554 of this title, and may continue or modify conditions of release or terminate release of the person. [Repealed.]~~

~~(f) Notwithstanding Rule 3 of the Vermont Rules of Criminal Procedure, a law enforcement officer may arrest a person without a warrant when the officer has probable cause to believe the person without just cause has failed to appear at a specified time and place in connection with a prosecution for an offense or has violated a condition of release relating to a restriction on travel or a condition of release that he or she not directly contact, harass, or cause to be harassed a victim or potential witness. [Repealed.]~~

Sec. 6. 13 V.S.A. § 7559a is added to read:

§ 7559a. RELEASE; DESIGNATION

(a) The officer in charge of a facility under the control of the department of corrections shall discharge any person held by the officer upon receipt of an order for release issued by a judicial officer pursuant to section 7554 of this title, accompanied by the full amount of any bond or cash bail fixed by the judicial officer. The officer in charge, or a person designated by the Court Administrator, shall issue a receipt for such bond or cash bail and shall account for and turn over such bond or cash bail to the court having jurisdiction.

(b) The Court Administrator shall designate persons to set bail for any person under arrest prior to arraignment when the offense charged provides for a penalty of less than two years imprisonment or a fine of not more than \$1,000.00, or both. Such persons designated by the Court Administrator shall be considered judicial officers for the purposes of sections 7554 and 7556 of this title.

(c) Any person who is designated by the Court Administrator under subsection (b) of this section, may refuse the designation by so notifying the Court Administrator in writing within seven days of the designation.

Sec. 7. COMMUNITY RESTITUTION; INTENT

It is the intent of the General Assembly that the Department of Corrections reinstitute the Community Restitution Program and ensure that it is appropriately staffed and resourced so that it may be offered in all 14 counties as a sentencing alternative.

Sec. 8. 13 V.S.A. § 7030 is amended to read:

§ 7030. SENTENCING ALTERNATIVES

(a) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime; the history and character of the defendant; the defendant's family circumstances and relationships; the impact of any sentence upon the defendant's minor children; the need for treatment; any noncompliance with court orders or failures to appear in connection in connection with a criminal prosecution; and the risk to self, others, and the community at large presented by the defendant:

(1) A deferred sentence pursuant to section 7041 of this title.

(2) Referral to a community reparative board pursuant to 28 V.S.A. chapter 12 in the case of an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the subject areas prohibited for referral to a community justice center under 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this subdivision does not require the court to place the offender on probation. The offender shall return to court for further sentencing if the reparative board does not accept the case or if the offender fails to complete the reparative board program to the satisfaction of the board in a time deemed reasonable by the board.

(3) Community restitution pursuant to a policy adopted by the Commissioner of Corrections.

(4) Probation pursuant to 28 V.S.A. § 205.

~~(4)~~(5) Supervised community sentence pursuant to 28 V.S.A. § 352.

~~(5)~~(6) Sentence of imprisonment.

(b) When ordering a sentence of probation, the court may require participation in the Restorative Justice Program established by 28 V.S.A. chapter 12 as a condition of the sentence.

Sec. 9. 18 V.S.A. § 4253 is amended to read:

§ 4253. USE OF A FIREARM WHILE SELLING OR DISPENSING A DRUG

(a) A person who uses a firearm during and in relation to selling or dispensing a regulated drug in violation of subdivision 4230(b)(3), 4231(b)(3), 4232(b)(3), 4233(b)(3), 4234(b)(3), 4234a(b)(3), 4235(c)(3), or 4235a(b)(3) of this title shall be imprisoned not more than three years or fined not more than \$5,000.00, or both, in addition to the penalty for the underlying crime.

(b) A person who uses a firearm during and in relation to trafficking a regulated drug in violation of subsection 4230(c), 4231(c), 4233(c), or 4234a(c) of this title shall be imprisoned not more than five years or fined not more than \$10,000.00, or both, in addition to the penalty for the underlying crime.

(c) For purposes of this section, “use of a firearm” ~~shall include~~ includes:

(1) using a firearm while selling or trafficking a regulated drug; and

(2) the exchange of firearms for drugs, and this section shall apply to the person who trades a firearm for a drug and the person who trades a drug for a firearm.

(d) Conduct constituting the offense of using a firearm while selling or trafficking a regulated drug shall be considered a violent act for the purposes of determining bail.

Sec. 10. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;
PRETRIAL SUPERVISION PROGRAM; RECOMMENDATIONS;
REPORT

(a) The Joint Legislative Justice Oversight Committee shall review the PreTrial Supervision Program established pursuant to 13 V.S.A. § 7555. The Committee shall review and provide recommendations to the Department of Corrections for the most prudent use of any funds appropriated to the Department to operate the Program. The review shall also include recommendations concerning the geographic areas that the Department may first implement the Program and future funding mechanisms for the Program.

(b) The Committee’s recommendations pursuant to subsection (a) of this section shall be submitted to the Department on or before September 1, 2024 and to the General Assembly on or before November 15, 2024.

Sec. 11. CORRECTIONS MONITORING COMMISSION; DEFICIENCIES;
RECONSTITUTION; REPORT

(a) On or before January 1, 2025, the Corrections Monitoring Commission shall conduct a review to identify what the Commission’s needs are to operate, including its structural challenges; recommendations of changes to the membership of the Commission; the training necessary for members to operate effectively as a Commission; and the resources necessary given its mandates pursuant to 28 V.S.A. § 123.

(b) On or before January 15, 2025, the Commission shall present the results of the review to the Senate Committee on Judiciary and the House Committee on Corrections and Institutions.

Sec. 12. PROSPECTIVE REPEAL

13 V.S.A. § 7555 shall be repealed on December 31, 2026.

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

S. 254.

An act relating to including rechargeable batteries and battery-containing products under the State battery stewardship program

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 1, 10 V.S.A. chapter 168, in section 7581, in subdivision (9), as amended, after “means” and before “readily detachable” by inserting the words the battery is

and, in section 7587, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Sale prohibited. Except as set forth in subsection (b) of this section, no retailer shall sell or offer for sale a primary battery, rechargeable battery, or battery-containing product on or after January 1, ~~2016~~ 2026 unless the producer of the primary battery, rechargeable battery, or battery-containing product is implementing an approved ~~primary~~ battery stewardship plan, is a member of a ~~primary~~ battery stewardship organization implementing an approved ~~primary~~ battery stewardship plan, or is exempt from participation in an approved plan, as determined by review of the producers listed on the Agency website required in subsection 7586(f) of this title.

Second: By adding two new sections to be Secs. 4a and 4b to read as follows:

Sec. 4a. 10 V.S.A. § 7182(b) is amended to read:

(b) Stewardship organization registration requirements.

(1) On or before ~~January~~ July 1, 2025 and annually thereafter, a stewardship organization shall file a registration form with the Secretary. The Secretary shall provide the registration form to the stewardship organization. The registration form shall include:

* * *

Sec. 4b. 10 V.S.A. § 6615f is added to read:

§ 6615f. ADMINISTRATIVE USE CONTROLS AT CONTAMINATED SITES

(a) A petition for administrative use controls at a hazardous material contaminated site may be made by a person responding to a release at that site. The petition shall be made on a form developed by the Secretary that includes the following:

(1) a brief description of the contamination at the site and work completed under an approved corrective action plan;

(2) a legal description of the property or properties subject to administrative use controls;

(3) a digital map that shows the boundaries of the property or properties subject to the administrative use controls and any operational units on the property or properties where more detailed controls will be applied;

(4) a narrative description of the uses that are prohibited on the property under the administrative use control, including any specific restrictions applicable to operational units on the property;

(5) signatures of the property owner or persons with legal control of the property certifying that they accept the imposition of these administrative use controls on their property; and

(6) any other requirement that the Secretary requires by rule.

(b) The Secretary shall approve the administrative use controls upon finding:

(1) the administrative use controls adequately protect human health and the environment;

(2) the administrative use controls are consistent with requirements of the plan required by rules adopted pursuant to this chapter and approved by the Secretary; and

(3) the petition contains adequate information to ensure that current and future owners are aware of the restrictions.

(c) Administrative use controls may require:

(1) restrictions on the use of the property or operational units on the property where restrictions are placed;

(2) a right to access the property to ensure that the restrictions are maintained; and

(3) requirements to maintain the restrictions and report on their implementation.

(d) Administrative use controls shall be effective until a property owner or person with legal control petitions the Secretary for their removal. The Secretary shall remove the administrative use controls if the property owner:

(1) clearly demonstrates that the contamination that was the basis of the administrative use controls has naturally attenuated; or

(2) has completed a subsequent corrective action plan that either remediates the hazardous material below environmental media standards or requires alternate administrative use controls.

S. 259.

An act relating to climate change cost recovery

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 2, 10 V.S.A. chapter 24A, in section 596, in subdivision (21), after “the Fund and the Program and” and before “a climate change adaptation project” by striking out the words “as part of the support of” and inserting in lieu thereof the words to pay for

Second: In Sec. 2, 10 V.S.A. chapter 24A, in section 598, in subsection (d), after “Inventories as applied to the” and before “fossil fuel volume data” by striking out the words “best publicly available”

and in section 598, by striking out subdivision (g)(2)(C) in its entirety and inserting in lieu thereof a new subdivision (g)(2)(C) to read as follows:

(C) Each subsequent installment shall be paid one year from the initial payment each subsequent year and shall be equal to 10 percent of the total cost recovery demand amount. The Secretary may charge reasonable interest on each installment payment or a payment delayed for any other reason and, at the Secretary’s discretion, may adjust the amount of a subsequent installment payment or a payment delayed for any other reason to reflect increases or decreases in the Consumer Price Index.

and in section 598, in subsection (i), in the first sentence, after “with the Secretary within” and before “days following issuance” by striking out the number “15” and inserting in lieu thereof the number 30

and in section 598, by striking out subsection (j) in its entirety and inserting in lieu thereof a new subsection (j) to read as follows:

(j) Nothing in this section shall be construed to supersede or diminish in any way any other remedies available to a person, as that term is defined in 1 V.S.A. § 128, at common law or under statute.

Third: In Sec. 2, 10 V.S.A. chapter 24A, in section 599a, in subdivision (b)(1), after “adopting methodologies using” and before “available science” by striking out the words “the best”

Fourth: By striking out Sec. 7, effective date, in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. EFFECTIVE DATES

This act shall take effect July 1, 2024, except that, notwithstanding 1 V.S.A. §§ 213 and 214, the liability of responsible parties for cost recovery demands under 10 V.S.A. chapter 24A shall apply retroactively to the covered period beginning January 1, 1995.

S. 302.

An act relating to public health outreach programs regarding dementia risk

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 6221 is amended to read:

§ 6221. PUBLIC EDUCATION RESOURCES

(a) The Departments of Health and of Disabilities, Aging, and Independent Living shall jointly develop and maintain easily accessible electronic, print, and in-person public education materials and programs on Alzheimer’s disease and related disorders that shall serve as a resource for patients, families, caregivers, and health care providers. The Departments shall include information about the State Plan on Aging as well as resources and programs for prevention, care, and support for individuals, families, and communities.

(b)(1) To the extent funds exist, the Departments of Health, of Mental Health, and of Disabilities, Aging, and Independent Living, in consultation with the Commission on Alzheimer’s Disease and Related Disorders and other relevant workgroups and community organizations, shall, as part of existing and relevant public health outreach programs:

(A) educate health care providers regarding:

(i) the value of early detection and timely diagnosis of Alzheimer’s disease and other types of dementia;

(ii) validated assessment tools for the detection and diagnosis of Alzheimer's disease, younger-onset Alzheimer's disease, and other types of dementia;

(iii) the benefits of a Medicare annual wellness visit or other annual physical for an adult 65 years of age or older to screen for Alzheimer's disease and other types of dementia;

(iv) the significance of recognizing the family care partner as part of the health care team;

(v) the Medicare care planning billing codes for individuals with Alzheimer's disease and other types of dementia; and

(vi) the necessity of ensuring that patients have access to language access services, when appropriate; and

(B) increase public understanding and awareness of:

(i) the early warning signs of Alzheimer's disease and other types of dementia; and

(ii) the benefits of early detection and timely diagnosis of Alzheimer's disease and other types of dementia.

(2) In their public health outreach programs and any programming and information developed for providers pertaining to Alzheimer's disease and other types of dementia, the Departments shall provide uniform, consistent guidance in nonclinical terms with an emphasis on cultural competency as defined in 18 V.S.A. § 251 and health literacy, specifically targeting populations at higher risk for developing dementia.

Sec. 2. PRESENTATION; ADDRESSING RARE DISEASES

On or after January 15, 2025, the Department of Health shall provide a presentation to the House Committee on Human Services and to the Senate Committee on Health and Welfare describing the public health impact of rare diseases in Vermont and the Department's role in addressing rare diseases statewide.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

S. 305.

An act relating to miscellaneous changes related to the Public Utility Commission

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Notice * * *

Sec. 1. 3 V.S.A. § 165(b) is amended to read:

(b) Public contract advocates shall be appointed or retained for such time as may be required to monitor, represent the public interest, and report on any contract for basic telecommunications service under 30 V.S.A. § 226a. Compensation, expenses, and support of public contract advocates shall be assessed as costs to the Department of Public Service and paid from the revenues received from the tax to finance the Department and the ~~Board~~ Public Utility Commission levied under 30 V.S.A. § 22.

Sec. 2. 30 V.S.A. § 8(d) is amended to read:

~~(d) At least 12 days prior to~~ Written notice of a hearing before the ~~Commission~~ Commissioner or a hearing officer, ~~the Commission shall give written notice of the time and place of the hearing to all parties to the case and shall indicate the name and title of the person designated to conduct the hearing shall be given in accordance with 30 V.S.A. § 10.~~

Sec. 3. 30 V.S.A. § 10(c) is amended to read:

~~(c) A scheduling or procedural conference~~ As used in this section, the term “hearings” refers to public hearings and evidentiary hearings. All other proceedings before the Commission may be held upon any reasonable notice.

Sec. 4. 30 V.S.A. § 102(a) is amended to read:

(a) Before the articles of incorporation are transmitted to the Secretary of State, the incorporators shall petition the Public Utility Commission to determine whether the establishment and maintenance of the corporation will promote the general good of the State and shall at that time file a copy of any petition with the Department. The Department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this title. The recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the Department requests a hearing on the petition, or, if the Commission deems a hearing necessary, it shall appoint a time and place either remotely accessible or in the county where the proposed corporation is to have its principal office for hearing the petition. ~~At least 12 days before this hearing, notice~~ Notice of the hearing ~~shall be given in accordance with section 10 of this title and~~ shall be published on the Commission’s website and once in a newspaper of general circulation in the county in which the proposed corporation is to have its principal office. The website notice shall be maintained through the date of the hearing. The newspaper notice shall include an ~~Internet~~ internet address

where more information regarding the petition may be viewed. The Department of Public Service, through the Director for Public Advocacy, shall represent the public at the hearing.

Sec. 5. 30 V.S.A. § 231(a) is amended to read:

(a) A person, partnership, unincorporated association, or previously incorporated association that desires to own or operate a business over which the Public Utility Commission has jurisdiction under the provisions of this chapter shall first petition the Commission to determine whether the operation of such business will promote the general good of the State, and shall at that time file a copy of any such petition with the Department. The Department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this title. Such recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the Department requests a hearing on the petition, or, if the Commission deems a hearing necessary, it shall appoint a time and place in the county where the proposed corporation is to have its principal office for hearing the petition. ~~At least 12 days before this hearing, notice~~ Notice of the hearing shall be given in accordance with section 10 of this title and shall be published on the Commission's website and once in a newspaper of general circulation in the county in which the hearing will occur. The website notice shall be maintained through the date of the hearing. The newspaper notice shall include an ~~Internet~~ internet address where more information regarding the petition may be viewed. The Director for Public Advocacy shall represent the public at the hearing. If the Commission finds that the operation of such business will promote the general good of the State, it shall give such person, partnership, unincorporated association, or previously incorporated association a certificate of public good specifying the business and territory to be served by such petitioners. For good cause, after opportunity for hearing, the Commission may amend or revoke any certificate awarded under the provisions of this section. If any such certificate is revoked, the person, partnership, unincorporated association, or previously incorporated association shall no longer have authority to conduct any business ~~which~~ that is subject to the jurisdiction of the Commission whether or not regulation thereunder has been reduced or suspended, under section 226a or 227a of this title.

Sec. 6. 30 V.S.A. § 248(u) is amended to read:

(u) ~~For an energy storage facility, a~~ A certificate under this section shall only be required for ~~a stationary facility exporting to the grid~~ an energy storage facility that has a capacity of 100 kW or greater, unless the Commission establishes a larger threshold by rule. The Commission shall establish a

simplified application process for energy storage facilities subject to this section with a capacity of up to 1 MW, unless it establishes a larger threshold by rule. For facilities eligible for this simplified application process, a certificate of public good will be issued by the Commission by the ~~forty-sixth~~ 46th day following filing of a complete application, unless a substantive objection is timely filed with the Commission or the Commission itself raises an issue. The Commission may require facilities eligible for the simplified application process to include a letter from the interconnecting utility indicating the absence or resolution of interconnection issues as part of the application.

* * * Energy Efficiency Modernization Act * * *

Sec. 7. 2020 Acts and Resolves No. 151, Sec. 1, as amended by 2023 Acts and Resolves No. 44, Sec. 1, is further amended to read:

Sec. 1. ALLOWANCE OF THE USE OF ENERGY EFFICIENCY
CHARGE FUNDS FOR GREENHOUSE GAS EMISSIONS
REDUCTION PROGRAMS

(a) The electric resource acquisition budget for an entity appointed to provide electric energy efficiency and conservation programs and measures pursuant to 30 V.S.A. § 209(d)(2)(A) for the calendar years 2021–2026 shall be determined pursuant to 30 V.S.A. § 209(d)(3)(B). This section shall apply only if the entity’s total electric resource acquisition budget for 2024–2026 does not exceed the entity’s total electric resource acquisition budget for 2021–2023, adjusted for cumulative inflation between January 1, 2021, and July 1, 2023, using the national consumer price index. An entity may include proposals for activities allowed under this pilot in its 2027–2029 demand resource plan filing, but these activities shall only be implemented if this section is extended to cover that ~~timeframe~~ time frame.

(b) Notwithstanding any provision of law or order of the Public Utility Commission (PUC) to the contrary, ~~the PUC shall authorize an entity pursuant to subsection (a) of this section to appointed under 30 V.S.A. § 209(d)(2)(A) may spend a portion of its electric resource acquisition budget, in an amount to be determined by the PUC but not to exceed \$2,000,000.00 per year, on programs, measures, and services that reduce greenhouse gas emissions in the thermal energy or transportation sectors. An entity appointed under 30 V.S.A. § 209(d)(2)(A) that has a three-year electric resource acquisition budget of less than \$8,000,000.00 may spend up to \$800,000.00 of its resource acquisition budget, and any additional amounts the entity has available to it through annually-budgeted thermal energy and process fuel funds and carry-forward thermal energy and process fuel funds from prior periods, on programs,~~

measures, and services that reduce greenhouse gas emissions in the thermal energy or transportation sector. Programs measures, and services authorized pursuant to subsection (a) of this section shall An entity spending a portion of its electric resource acquisition budget as outlined in this section shall submit notice of the amount of the annual electric resource acquisition budget to be spent pursuant to this subsection to the PUC, the Department of Public Service, the electric distribution utilities, and the Vermont Public Power Supply Authority with a sworn statement attesting that the programs, measures, or services comply with the following criteria:

(1) Reduce greenhouse gas emissions in the thermal energy or transportation sectors, or both.

(2) Have a nexus with electricity usage.

(3) Be additive and complementary to and shall not replace or be in competition with electric utility energy transformation projects pursuant to 30 V.S.A. § 8005(a)(3) and existing thermal efficiency programs operated by an entity appointed under 30 V.S.A. § 209(d)(2)(A) such that they result in the largest possible greenhouse gas emissions reductions in a cost-effective manner.

(4) Be proposed after the entity consults with any relevant State agency or department and shall not be duplicative or in competition with programs delivered by that agency or department.

(5) Be delivered on a statewide basis. However, this shall not preclude the delivery of services specific to a retail electricity provider. Should such services be offered, all distribution utilities and Vermont Public Power Supply Authority shall be provided the opportunity to participate, and those services shall be designed and coordinated in partnership with each of them. For programs and services that are not offered on a statewide basis, the proportion of utility-specific program funds used for services to any distribution utility shall be ~~no~~ not less than the proportionate share of the energy efficiency charge, which in the case of Vermont Public Power Supply Authority, is the amount collected across their combined member utility territories during the period this section remains in effect.

(c) An entity that ~~is approved to provide~~ provides a program, measure, or service pursuant to this section shall provide the program, measure, or service in cooperation with a retail electricity provider.

(4) The entity shall not claim any savings and reductions in fossil fuel consumption and in greenhouse gas emissions by the customers of the retail electricity provider resulting from the program, measure, or service if the

provider elects to offer the program, measure, or service pursuant to 30 V.S.A. § 8005(a)(3) unless the entity and provider agree upon how savings and reductions should be accounted for, apportioned, and claimed.

~~(2) The PUC shall develop standards and methods to appropriately measure the effectiveness of the programs, measures, and services in relation to the entity's Demand Resources Plan proceeding.~~

(d) Any funds spent on programs, measures, and services pursuant to this section shall not be counted towards the calculation of funds used by a retail electricity provider for energy transformation projects pursuant to 30 V.S.A. § 8005(a)(3) and the calculation of project costs pursuant to 30 V.S.A. § 8005(a)(3)(C)(iv).

~~(e) On or before April 30, 2021 and every April 30 for six years thereafter, the PUC shall submit a written report to the House Committee on Environment and Energy and the Senate Committees on Natural Resources and Energy and on Finance concerning any programs, measures, and services approved pursuant to this section.~~

(f) Thermal energy and process fuel efficiency funding. Notwithstanding 30 V.S.A. § 209(e), a retail electricity provider that is also an entity appointed under 30 V.S.A. § 209(d)(2)(A), may during the years of 2024–2026, use monies subject to 30 V.S.A. § 209(e) to deliver thermal and transportation measures or programs that reduce fossil fuel use regardless of the preexisting fuel source of the customer, including measures or programs permissible under this pilot program, with special emphasis on measures or programs that take a new or innovative approach to reducing fossil fuel use, including modifying or supplementing existing vehicle incentive programs and electric vehicle supply equipment grant programs to incentivize high-consumption fuel users, especially individuals using more than 1000 gallons of gasoline or diesel annually and those with low and moderate income, to transition to the use of battery electric vehicles.

* * * Clean Heat Standard * * *

Sec. 8. 30 V.S.A. § 8124 is amended to read:

§ 8124. CLEAN HEAT STANDARD COMPLIANCE

* * *

(b) Annual registration.

(1) Each entity that sells heating fuel into or in Vermont shall register annually with the Commission by an annual deadline established by the Commission. The first registration deadline is January 31, 2024, and the

annual deadline shall ~~remain January 31 of each year unless a different deadline is established by the Commission~~ be June 30 of each year after. The form and information required in the registration shall be determined by the Commission and shall include all data necessary to establish annual requirements under this chapter. The Commission shall use the information provided in the registration to determine whether the entity shall be considered an obligated party and the amount of its annual requirement.

* * *

(4) The Commission shall maintain, and update annually, a list of registered entities on its website ~~that contains the required registration information.~~

* * *

Sec. 9. 30 V.S.A. § 8125 is amended to read:

§ 8125. DEFAULT DELIVERY AGENT

* * *

(b) Appointment. The default delivery agent shall be one or more statewide entities capable of providing a variety of clean heat measures. ~~The Commission shall designate the first default delivery agent on or before June 1, 2024.~~ The designation of an entity under this subsection may be by order of appointment or contract. A designation, whether by order of appointment or by contract, may only be issued after notice and opportunity for hearing. An existing order of appointment issued by the Commission under section 209 of this title may be amended to include the responsibilities of the default delivery agent. An order of appointment shall be for a limited duration not to exceed 12 years, although an entity may be reappointed by order or contract. An order of appointment may include any conditions and requirements that the Commission deems appropriate to promote the public good. For good cause, after notice and opportunity for hearing, the Commission may amend or revoke an order of appointment.

* * *

(d) Use of default delivery agent.

* * *

(3) The Commission shall by rule or order establish a standard timeline under which the default delivery agent credit cost or costs are established and by which an obligated party must file its form. The default delivery agent's schedule of costs shall include sufficient costs to deliver installed measures and shall specify separately the costs to deliver measures to customers with low

income and customers with moderate income as required by subsection 8124(d) of this title. The Commission shall provide not less than ~~120~~ 90 days' notice of default delivery agent credit cost or costs prior to the deadline for an obligated party to file its election form so an obligated party can assess options and inform the Commission of its intent to procure credits in whole or in part as fulfillment of its requirement.

* * *

(e) Budget.

* * *

(B) the development of a three-year plan and associated proposed budget by the default delivery agent to be informed by the final results of the Department's potential study. The default delivery agent may propose a portion of its budget towards promotion and market uplift, workforce development, and trainings for clean heat measures. The Commission shall approve the first three-year plan and associated budget by no later than September 1, 2025; and

* * *

Sec. 10. 30 V.S.A. § 8126 is amended to read:

§ 8126. RULEMAKING

(a) The Commission shall adopt rules and may issue orders to implement and enforce the Clean Heat Standard program.

* * *

(c) The Commission's rules may include a provision that allows the Commission to revise its Clean Heat Standard rules by order of the Commission without the revisions being subject to the rulemaking requirements of ~~the~~ 3 V.S.A. chapter 25, provided the Commission:

- (1) provides notice of any proposed changes;
- (2) allows for a 30-day comment period;
- (3) responds to all comments received on the proposed change;
- (4) provides a notice of language assistance services on all public outreach materials; and
- (5) arranges for language assistance to be provided to members of the public as requested using professional language services companies.

(d) Any order issued under ~~this chapter~~ subsection (c) of this section shall be subject to appeal to the Vermont Supreme Court under section 12 of this

title, and the Commission must immediately file any orders, a redline, and clean version of the revised rules with the Secretary of State, with notice simultaneously provided to the House Committee on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy.

Sec. 11. 2023 Acts and Resolves No. 18, Sec. 6 is amended to read:

Sec. 6. PUBLIC UTILITY COMMISSION IMPLEMENTATION

* * *

(f) Final rules.

* * *

(5) The final proposed rules shall contain the first set of annual required amounts for obligated parties as described in 30 V.S.A. § 8124(a)~~(1)~~(2). The first set of annual required amounts shall only be adopted through the rulemaking process established in this section, not through an order.

* * *

Sec. 12. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

* * *

(e) The Commissioner may, in the Commissioner's discretion and subject to such conditions and requirements as the Commissioner may provide, including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

(23) To the Public Utility Commission and the Department of Public Service, provided the disclosure relates to the fuel tax under 33 V.S.A. chapter 25 and is used for the purposes of auditing compliance with the Clean Heat Standard under 30 V.S.A. chapter 94. The Commissioner shall, at a minimum, provide the names of any new businesses selling heating fuel in any given year and the names of any businesses that are no longer selling heating fuel.

* * *

* * * Energy Storage Fees * * *

Sec. 13. 30 V.S.A. § 248c(d) is amended to read:

(d) Electric and natural gas facilities. This subsection sets fees for registrations and applications under section 248 of this title.

(1) There shall be a ~~registration~~ fee of \$100.00 for each electric generation facility less than or equal to 50 kW in plant capacity, or for a rooftop project, or for a hydroelectric project filing a net metering registration, or for an application filed under subsection 248(n) of this title, or for an energy storage facility less than or equal to 1 MW in nameplate capacity that is required to obtain a certificate of public good under section 248 of this title and is proposed to be located inside an existing building and that would not require any ground disturbance work or upgrades to the distribution system.

(2) There shall be a fee of \$25.00 for modifications for each electric generation facility less than or equal to 50 kW in plant capacity, or for a rooftop project, or for a hydroelectric project filing a net metering registration, or for an application filed under subsection 248(n) of this title, or for an energy storage facility less than or equal to 1 MW in nameplate capacity that is required to obtain a certificate of public good under section 248 of this title and is proposed to be located inside an existing building and that would not require any ground disturbance work or upgrades to the distribution system.

(3) There shall be a fee for electric generation facilities and energy storage facilities that are required to obtain a certificate of public good under section 248 of this title and that do not qualify for the lower fees in subdivisions (1) and (2) of this subsection, calculated as follows:

(A) \$5.00 per kW; and

(B) \$100.00 for modifications.

(4) For applications that include both a proposed electric generation facility and a proposed energy storage facility, the fee shall be the larger of either the fee for the electric generation facility or the energy storage facility as set out in subdivisions (1) and (3) of this subsection.

(5) For applications that propose to add an energy storage facility to a location that already has a certificate of public good for an electric generation facility, the fee shall be that for a proposed new energy storage facility as set out in subdivisions (1) and (3) of this subsection.

(6) For applications that propose to add an electric generation facility to a location that already has a certificate of public good for an energy storage facility, the fee shall be that for a proposed new electric generation facility as set out in subdivisions (1) and (3) of this subsection.

* * * Energy Savings Account * * *

Sec. 14. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

* * *

(d) Energy efficiency.

* * *

(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Commission may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title, with due consideration to the State's energy policy under section 202a of this title and to its energy and economic policy interests under section 218e of this title to maintain and enhance the State's economic vitality. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Commission and deposited into the Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Commission. This notice shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.

* * *

(B) The charge established by the Commission pursuant to this subdivision (3) shall be in an amount determined by the Commission by rule or order that is consistent with the principles of least-cost integrated planning as defined in section 218c of this title. As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective energy efficiency savings. In setting the amount of the charge and its allocation, the Commission shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the State's transmission and distribution infrastructure; minimizing the costs of electricity; reducing Vermont's total energy demand, consumption, and expenditures; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and targeting efficiency and conservation efforts to locations, markets, or customers where they may provide the greatest value.

(C) The Commission, by rule or order, shall establish a process by which a customer who pays an average annual energy efficiency charge under this subdivision (3) of at least \$5,000.00 may apply to the Commission to self-

administer energy efficiency through the use of an energy savings account or customer credit program which that shall contain a percentage up to 75 percent and 90 percent, respectively of the customer's energy efficiency charge payments as determined by the Commission. The remaining portion of the charge shall be used for administrative, measurement, verification, and evaluation costs and for systemwide energy benefits. Customer energy efficiency funds may be approved for use by the Commission for one or more of the following: electric energy efficiency projects and non-electric efficiency projects, which may include thermal and process fuel efficiency, flexible load management, combined heat and power systems, demand management, energy productivity, and energy storage. These funds shall not be used for the purchase or installation of new equipment capable of combusting fossil fuels. The Commission in its rules or order shall establish criteria for each program and approval of these applications, establish application and enrollment periods, establish participant requirements, and establish the methodology for evaluation, measurement, and verification for programs. The total amount of customer energy efficiency funds that can be placed into energy savings accounts or the customer credit program annually is \$2,000,000.00 and \$1,000,000.00 respectively.

~~(C)~~(D) The Commission may authorize the use of funds raised through an energy efficiency charge on electric ratepayers to reduce the use of fossil fuels for space heating by supporting electric technologies that may increase electric consumption, such as air source or geothermal heat pumps if, after investigation, it finds that deployment of the technology:

* * *

* * * Thermal Energy * * *

Sec. 15. 30 V.S.A. § 201 is amended to read:

§ 201. DEFINITIONS

As used in this chapter:

* * *

(7) “Thermal energy exchange” means piped noncombustible fluids used for transferring heat into and out of buildings for the purpose of avoiding, eliminating, reducing any existing or new on-site greenhouse gas emissions of all types of heating and cooling processes, including comfort heating and cooling, domestic hot water, and refrigeration.

(8) “Thermal energy exchange network” means all real estate, fixtures, and personal property operated, owned, used, or to be used for or in connection with or to facilitate distribution infrastructure project that supplies

thermal energy to more than one household, dwelling unit, or network of buildings that are not commonly owned. This definition does not include a mutual benefit enterprise, cooperative or common interest community that is owned by the persons it serves and that provides thermal energy exchange services only to its members, a landlord providing thermal energy exchange services only to its tenants where the service is included in the lease agreement, or any entity that provides thermal energy exchange services only to itself.

Sec. 16. 30 V.S.A. § 231 is amended to read:

§ 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF SERVICE; HEARING

* * *

(d) Notwithstanding any other State law to the contrary, a municipality shall have the authority to construct, operate, set rates for, finance, and use eminent domain for a thermal energy exchange network utility without a certificate of public good or approval by the Commission. Nothing in this section shall alter the requirements of 10 V.S.A. chapter 151 including for district energy projects such as those described in subdivision 209 (e)(1) of this title.

Sec. 17. THERMAL ENERGY EXCHANGE NETWORK DEVELOPMENT REPORT

(a) On or before December 1, 2025, the Public Utility Commission shall issue a report to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy on how to support the development of thermal energy exchange networks and the permitting of thermal energy exchange network providers. The report shall address all aspects of the permitting, construction, operation, and rates of thermal energy exchange networks and recommend necessary statutory changes.

(b) Nothing in this section shall be construed to prohibit persons or companies already regulated by the Commission under 30 V.S.A. chapter 5 from pursuing thermal energy change network projects prior to completion of this study.

* * * Baseload Power * * *

Sec. 18. 30 V.S.A. § 8009 is amended to read:

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO REQUIREMENT

* * *

(d) On or before November 1, ~~2026~~ 2027, the Commission shall determine, for the period beginning on November 1, ~~2026~~ 2027 and ending on November 1, 2032, the price to be paid to a plant used to satisfy the baseload renewable power portfolio requirement. The Commission shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25. The price shall be the avoided cost of the Vermont composite electric utility system. As used in this subsection, the term “avoided cost” means the incremental cost to retail electricity providers of electric energy or capacity, or both, which, but for the purchase from the plant proposed to satisfy the baseload renewable power portfolio requirement, such providers would obtain from a source using the same generation technology as the proposed plant. For the purposes of this subsection, the term “avoided cost” also includes the Commission’s consideration of each of the following:

* * *

(k) Collocation and efficiency requirements.

* * *

(3) On or before October 1, ~~2024~~ 2025, the owner of the plant shall submit to the Commission and the Department a certification that the main components of the facility used to meet the requirement of subdivision (1) of this subsection ~~(k)~~ have been manufactured and that the construction plans for the facility have been completed.

(4) If the contract and certification required under subdivision (2) of this subsection are not submitted to the Commission and Department on or before July 1, 2023 or if the certification required under subdivision (3) is not submitted to the Commission and Department on or before October 1, ~~2024~~ 2025, then the obligation under this section for each Vermont retail electricity provider to purchase a pro rata share of the baseload renewable power portfolio requirement shall cease on November 1, ~~2024~~ 2025, and the Commission is not required to conduct the rate determination provided for in subsection (d) of this section.

(5) On or before September 1, ~~2025~~ 2026, the Department shall investigate and submit a recommendation to the Commission on whether the plant has achieved the requirement of subdivision (1) of this subsection. If the Department recommends that the plant has not achieved the requirement of subdivision (1) of this subsection, the obligation under this section shall cease on November 1, ~~2025~~ 2026, and the Commission is not required to conduct the rate determination provided for in subsection (d) of this section.

(6) After November 1, ~~2026~~ 2027, the owner of the plant shall report annually to the Department and the Department shall verify the overall efficiency of the plant for the prior 12-month period. If the overall efficiency of the plant falls below the requirement of subdivision (1) of this subsection, the report shall include a plan to return the plant to the required efficiency within one year.

(7) If, after implementing the plan in subdivision (6) of this subsection, the owner of the plant does not achieve the efficiency required in subdivision (1) of this subsection, the Department shall request that the Commission commence a proceeding to terminate the obligation under this section.

(8) The Department may retain research, scientific, or engineering services to assist it in making the recommendation required under subdivision (5) of this subsection and in reviewing the information required under subdivision (6) of this subsection and may allocate the expense incurred or authorized by it to the plant's owner.

* * *

Sec. 19. BIOMASS SUPPLIERS AND CONSTRUCTION

(a) The owner of the plant used to satisfy the baseload renewable power portfolio requirement under 30 V.S.A. § 8009 shall offer to enter into written contracts with each of its biomass suppliers establishing customary commercial terms, including payment timelines, supply volume, and term length.

(b) For biomass suppliers that are not a party to a supply contract with the plant owner as of April 1, 2024, the plant owner shall offer to provide supply contracts to ensure payment to such suppliers for biomass deliveries within seven business days of the invoice date.

(c) The plant owner shall ensure that the payments made to each biomass supplier are timely, accurate, and valid. In the event any payment is not timely made under the terms of a supplier contract, the plant owner shall pay a late payment penalty to the supplier equal to five percent per week.

(d) The plant owner shall hire an independent certified public accountant to review the timeliness of the plant owner's payments to its suppliers and to prepare a quarterly report detailing its findings. The quarterly report shall also include a status report on the design and construction of the facility proposed to meet the requirements of 30 V.S.A. § 8009(k). Each quarterly report shall be verified under the penalty of perjury and provided to the General Assembly and the Department of Public Service.

(e) The requirements of this section shall apply until the Commission establishes the new avoided cost paid to the plant in accordance with 30 V.S.A. § 8009(d), after which point the obligations under this section shall cease.

* * * Dig Safe; Notice of Excavation Activities * * *

Sec. 20. 30 V.S.A. § 7004(c) is amended to read:

(c) At least 48 72 hours, excluding Saturdays, Sundays, and legal holidays, but not more than 30 days before commencing excavation activities, each person required to give notice of excavation activities shall notify the System referred to in section 7002 of this title. Such notice shall set forth a reasonably accurate and readily identifiable description of the geographical location of the proposed excavation activities and the premarks.

* * * Energy Cost Stabilization Study * * *

Sec. 21. ENERGY COST STABILIZATION STUDY

(a) The General Assembly finds:

(1) Energy generation and consumption is in a state of transition, shifting towards beneficial, strategic electrification using efficiency, renewables, storage, and flexible demand management.

(2) There is an increasing understanding of energy burden that is measured in terms of the percentage of household income that is spent on energy costs.

(3) Total energy costs are a result of multiple expenditures such as electricity costs, transportation costs, and building heating and cooling costs.

(4) As energy consumption shifts from fossil fuels to electricity, electricity costs may increase but total energy costs (including transportation and building heating and cooling costs) are expected to decrease.

(5) There are various income-sensitive programs available to Vermont households that assist with energy costs.

(b) The Public Utility Commission shall study current and potential future programs and initiatives focused on reducing or stabilizing energy costs for low- or moderate-income households and shall make a determination as to whether a statewide program to reduce energy burden is needed in Vermont. In conducting its analysis, the Commission shall take into consideration a comprehensive approach that recognizes electric costs might rise but that total energy costs are expected to decrease because of increased electrification, efficiency, storage, and demand response activities. The Commission shall

submit a written report of its findings and recommendations to the General Assembly on or before December 1, 2025.

(c) In conducting the study required by this section, the Commission shall seek input from interested stakeholders, including the Department of Public Service, the Agency of Human Services, the Agency of Transportation, the efficiency utilities, electric distribution utilities, residential customers, low-income program representatives, consumer-assistance program representatives, statewide environmental organizations, environmental justice entities, at least one low-income cost reduction program participant, at least one moderate-income cost reduction program participant, and any other stakeholders identified by the Commission.

(d)(1) As part of its study, the Commission shall assess current programs within and outside Vermont designed to directly reduce or stabilize energy expenditures for low- or moderate-income households and shall seek to identify successful design elements of each. In particular, the Commission shall assess:

(A) Vermont low-income electric energy cost reduction programs;

(B) statewide energy cost reduction programs currently available outside Vermont; and

(C) Vermont programs available to low- and moderate-income households that are designed to reduce transportation, thermal, or electric energy costs, including through investments in efficiency or electrification measures.

(2) In assessing existing programs, the Commission shall take into consideration and develop findings regarding each program's:

(A) funding model and funding source;

(B) eligibility requirements;

(C) process for making and monitoring eligibility determinations;

(D) administrative structure;

(E) efficacy in terms of eligibility, customer participation, funding, program offerings, and coordination with other programs, and where there might be opportunities for program improvement, particularly regarding administrative savings and efficiencies and universality of access; and

(F) ability to assist the State with achieving its greenhouse gas reduction requirements in a manner that is consistent with State policy on environmental justice.

(e) The report required by this section shall include the following:

(1) Recommendations as to how existing programs may better coordinate to ensure low- and moderate-income Vermonters are reducing their total energy consumption and costs.

(2) If applicable, identification of obstacles and recommended solutions for increasing coordination across electric, thermal, and transportation energy cost reduction programs, including through the sharing of best practices and program design and implementation successes.

(3) A recommendation as to whether existing programs should continue to operate and align with a new statewide program or, instead, transition eligible customers to a statewide program and otherwise cease operations.

(4) A recommendation regarding the most appropriate financing mechanism for a statewide energy cost stabilization program if such a program is recommended and, in addition, recommendations regarding:

(A) eligibility requirements, which may be based on income, participation in other public assistance programs, or other potential approach;

(B) a process for making and monitoring eligibility determinations;
and

(C) any other matters deemed appropriate by the Commission.

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 20, (30 V.S.A. § 7004(c)) shall take effect on November 1, 2024.

House Proposal of Amendment to Senate Proposal of Amendment

H. 655.

An act relating to qualifying offenses for sealing criminal history records and access to sealed criminal history records

The House concurs in the Senate proposal of amendment with further proposal of amendment thereto as follows:

First: By striking out Sec. 1, sealing criminal history records; Joint Legislative Justice Oversight Committee, in its entirety and by renumbering the remaining sections to be numerically correct.

Second: In the newly renumbered Sec. 1, petitionless sealing, after the first instance of “recommendation” by inserting on how

Report of Committee of Conference

S. 309

An act relating to miscellaneous changes to laws related to the Department of Motor Vehicles, motor vehicles, and vessels.

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 309 An act relating to miscellaneous changes to laws related to the Department of Motor Vehicles, motor vehicles, and vessels.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposals of amendment and the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Transporters * * *

Sec. 1. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

* * *

(8)(A)(i) “Dealer” means a person, partnership, corporation, or other entity engaged in the business of selling or exchanging new or used motor vehicles, snowmobiles, motorboats, or all-terrain vehicles. A dealer may, as part of or incidental to such business, repair such vehicles or motorboats, sell parts and accessories, or lease or rent such vehicles or motorboats. “Dealer” ~~shall~~ does not include a finance or auction dealer or a transporter.

(ii)(I) For a dealer in new or used cars or motor trucks, “engaged in the business” means having sold or exchanged at least 12 cars or motor trucks, or a combination thereof, in the immediately preceding year, or 24 in the two immediately preceding years.

(II) For a dealer in snowmobiles, motorboats, or all-terrain vehicles, “engaged in the business” means having sold or exchanged at least one snowmobile, motorboat, or all-terrain vehicle, respectively, in the immediately preceding year or two in the two immediately preceding years.

(III) For a dealer in trailers, semi-trailers, or trailer coaches, “engaged in the business” means having sold or exchanged at least one trailer, semi-trailer, or trailer coach in the immediately preceding year or a combination of two such vehicles in the two immediately preceding years.

However, the sale or exchange of a trailer with a gross vehicle weight rating of 3,500 pounds or less shall be excluded under this subdivision (III).

(IV) For a dealer in motorcycles or motor-driven cycles, “engaged in the business” means having sold or exchanged at least one motorcycle or motor-driven cycle in the immediately preceding year or a combination of two such vehicles in the two immediately preceding years.

* * *

(42)(A) “Transporter” means:

(i) a person engaged in the business of delivering vehicles of a type required to be registered from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer;

(ii) a person regularly engaged in the business of towing trailer coaches, owned by them or temporarily in their custody, on their own wheels over public highways, or towing office trailers owned by them or temporarily in their custody, on their own wheels over public highways;

(iii) a person regularly engaged and properly licensed for the short-term rental of “storage trailers” owned by them and who move these storage trailers on their own wheels over public highways;

(iv) a person regularly engaged in the business of moving modular homes over public highways;

(v) dealers, owners of motor vehicle auction sites, and automobile repair shop owners when engaged in the transportation of motor vehicles to and from their place of business for repair purposes; or

(vi) the following, provided that the transportation and delivery of motor vehicles is a common and usual incident to their business:

(I) persons towing overwidth trailers owned by them in connection with their business;

(II) persons whose business is the repossession of motor vehicles; ~~and~~

(III) persons whose business involves moving vehicles from the place of business of a registered dealer to another registered dealer, or between a motor vehicle auction site and a registered dealer or another motor vehicle auction site, leased vehicles to the lessor at the expiration of the lease, or vehicles purchased at the place of auction of an auction dealer to the purchaser; and

(IV) persons who sell or exchange new or used motor vehicles but who are not engaged in business as that phrase is defined in subdivision (8)(A)(ii) of this section.

* * *

Sec. 2. 23 V.S.A. § 491 is amended to read:

§ 491. TRANSPORTER APPLICATION; ELIGIBILITY; USE OF TRANSPORTER PLATES

(a) A transporter may apply for and the Commissioner of Motor Vehicles, ~~in his or her~~ the Commissioner's discretion, may issue a certificate of registration and a general distinguishing number plate. Before a person may be registered as a transporter, ~~he or she~~ the person shall ~~present proof self-~~ certify the following on a form provided by the Commissioner:

(1) ~~of~~ compliance with section 800 of this title; and

(2) that ~~he or she~~ the person either owns or leases a permanent place of business located in this State where business will be conducted during regularly established business hours and the required records stored and maintained.

(b) When ~~he or she~~ a transporter displays ~~thereon his or her~~ the transporter's registration plate, a the transporter or ~~his or her~~ the transporter's employee or contractor may transport a motor vehicle owned by the transporter, repossessed, or temporarily in the transporter's custody, and it shall be considered ~~to be~~ properly registered under this title. ~~Transporter's~~ A transporter's registration plates shall not be used for any other purposes and shall not be used by the holder of such number plates for personal purposes.

* * * Definition of All-Surface Vehicle * * *

Sec. 3. 23 V.S.A. § 4(80) is amended to read:

(80) An "all-surface vehicle" or "ASV" means any non-highway recreational vehicle, except a snowmobile, when used for cross-country travel on trails or on any one of the following or combination of the following: land, water, snow, ice, marsh, swampland, and natural terrain. An all-surface vehicle shall be designed for use both on land and in water, with or without tracks, shall be capable of flotation and shall be equipped with a skid-steering system, a sealed body, a fully contained cooling system, and ~~six or up to~~ eight tires designed to be inflated with an operating pressure not exceeding 10 pounds per square inch as recommended by the manufacturer. An all-surface vehicle shall have a net weight of 1,500 pounds or less, shall have a width of 75 inches or less, shall be equipped with an engine of not more than

50 horsepower, and shall have a maximum speed of not more than 25 miles per hour. An ASV when operated in water shall be considered to be a motorboat and shall be subject to the provisions of chapter 29, subchapter 2 of this title. An ASV operated anywhere except in water shall be subject to the provisions of chapter 31 of this title.

* * * Record Keeping * * *

Sec. 4. 23 V.S.A. § 117 is added to read:

§ 117. RECORD-KEEPING REQUIREMENTS; CERTIFICATES OF TITLE

(a) Original records. Original certificate of title records, including surrendered certificates of title and requests for salvage title, as issued pursuant to chapters 21 and 36 of this title, shall be maintained as an electronic image or electronic copy or other form of image, which allows for the tracing of anything for which the Department of Motor Vehicles issues a certificate of title, for a period of five years.

(b) Electronic format. Records of title shall be maintained in a format, determined by the Commissioner, that allows for the tracing of anything for which the Department of Motor Vehicles issues a certificate of title.

Sec. 5. 23 V.S.A. § 2017(c) is amended to read:

~~(c) The Commissioner shall maintain a record of all certificates of title issued and of all exempt vehicle titles issued under a distinctive title number assigned to the vehicle; under the identification number of the vehicle; alphabetically, under the name of the owner; and, in the discretion of the Commissioner, by any other method the Commissioner determines. The original records may be maintained on microfilm or electronic imaging pursuant to section 117 of this title.~~

Sec. 6. 23 V.S.A. § 2027(c) is amended to read:

~~(c) The Commissioner shall file and retain for five years every surrendered certificate of title so as to permit the tracing of title of the corresponding vehicles pursuant to section 117 of this title.~~

Sec. 7. 23 V.S.A. § 2092 is amended to read:

§ 2092. ISSUANCE OF SALVAGE TITLE

The Commissioner shall file and maintain in the manner provided in section ~~2017~~ 117 of this title each application received and when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a salvage certificate of title, shall issue a salvage certificate of title to the vehicle.

Sec. 8. 23 V.S.A. § 3810(b)(1) is amended to read:

(b)(1) The Commissioner shall maintain at ~~his or her central office~~ a record of all certificates of title issued by ~~him or her~~:

~~(A) under a distinctive title number assigned to the vessel, snowmobile, or all-terrain vehicle;~~

~~(B) under the identification number of the vessel, snowmobile, or all-terrain vehicle;~~

~~(C) alphabetically, under the name of the owner; and, in the discretion of the Commissioner, by any other method he or she determines the Commissioner pursuant to section 117 of this title.~~

Sec. 9. 23 V.S.A. § 3820(c) is amended to read:

~~(c) The Commissioner shall file and retain every surrendered certificate of title for five years. The file shall be maintained so as to permit the tracing of title of the vessel, snowmobile, or all-terrain vehicle designated pursuant to section 117 of this title.~~

* * * Registration; Residents * * *

Sec. 10. 23 V.S.A. § 301 is amended to read:

§ 301. PERSONS REQUIRED TO REGISTER

(a) As used in this section:

(1) “Resident” means an individual living in the State who intends to make the State the individual’s place of domicile either permanently or for an indefinite number of years.

(2) “Temporary resident” means an individual living in the State for a particular purpose involving a defined period, including students, migrant workers employed in seasonal occupations, and individuals employed under a contract with a fixed term, provided that the motor vehicle will be used in the State on a regular basis.

(b) Residents, except as provided in chapter 35 of this title, shall annually register motor vehicles owned or leased for a period of more than 30 days and operated by them, unless currently registered in Vermont.

(c) Temporary residents and foreign partnerships, firms, associations, and corporations having a place of business in this State may annually register motor vehicles owned or leased for a period of more than 30 days and operated by them or an employee.

(d) Notwithstanding this section, a resident who has moved into the State from another jurisdiction shall register ~~his or her~~ the resident's motor vehicle within 60 days ~~of~~ after moving into the State. ~~A person~~

(e) An individual shall not operate a motor vehicle nor draw a trailer or semi-trailer on any highway unless such vehicle is registered as provided in this chapter. Vehicle owners who have apportioned power units registered in this State under the International Registration Plan are exempt from the requirement to register their trailers in this State.

Sec. 11. 23 V.S.A. § 303(a) is amended to read:

(a) The Commissioner or ~~his or her~~ the Commissioner's duly authorized agent shall register a motor vehicle, trailer, or semi-trailer ~~when that is required or permitted to be registered in Vermont upon application therefor,~~ on a form prescribed by the Commissioner that is filed with the Commissioner, showing such motor vehicle to be properly equipped and in good mechanical condition, ~~is filed with him or her,~~ and accompanied by the required registration fee and evidence of the applicant's ownership of the vehicle in such form as the Commissioner may reasonably require. Except for State or municipal vehicles, registrants and titled owners shall be identical.

* * * Weight Limitations on Low-Number Plates * * *

Sec. 12. 23 V.S.A. § 304(c) is amended to read:

(c) The Commissioner shall issue registration numbers 101 through 9999, which shall be known as reserved registration numbers, for pleasure cars, ~~motor trucks that are registered at the pleasure car rate~~ for less than 26,001 pounds, and motorcycles in the following manner:

* * *

(4) A person holding a reserved registration number on a pleasure car, a truck ~~that is registered at the pleasure car rate~~ for less than 26,001 pounds, or a motorcycle may be issued the same reserved registration number for the other authorized vehicle types, provided that the person receives ~~no~~ not more than one such plate or set of plates for each authorized vehicle type.

* * * License Plates; Registration; Prorated Refunds * * *

Sec. 13. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

Subject to the conditions set forth in subdivisions (1), ~~(2), and (3)~~ (1)-(4) of this section, the Commissioner may cancel the registration of a motor vehicle, snowmobile, or motorboat when the owner returns to the Commissioner either

the number plates, if any, or the registration certificate. Upon cancellation of the registration, the Commissioner shall notify the Commissioner of Finance and Management, who shall issue a refund as follows:

(1) For registrations ~~cancelled~~ canceled prior to the beginning of the registration period, the refund is the full amount of the fee paid, less a charge of \$5.00.

(2) For registrations ~~cancelled~~ canceled within 30 days ~~of~~ after the date of issue, the refund is the full amount of the fee paid, less a charge of \$5.00. The owner of a motor vehicle must prove to the Commissioner's satisfaction that the number plates have not been used or attached to a motor vehicle.

(3) For registrations ~~cancelled~~ canceled prior to the beginning of the second year of a two-year registration period, the refund is one-half of the full amount of the two-year fee paid, less a charge of \$5.00.

(4) For registrations canceled prior to conclusion of a five-year registration period, the refund is as follows:

(A) four-fifths of the full amount of the five-year fee paid less a charge of \$5.00 if canceled prior to the beginning of the second year;

(B) three-fifths of the full amount of the five-year fee paid less a charge of \$5.00 if canceled prior to the beginning of the third year;

(C) two-fifths of the full amount of the five-year fee paid less a charge of \$5.00 if canceled prior to the beginning of the fourth year; and

(D) one-fifth of the full amount of the five-year fee paid less a charge of \$5.00 if canceled prior to the beginning of the fifth year.

* * * Tinted Windows * * *

Sec. 14. 23 V.S.A. § 1125 is amended to read:

§ 1125. OBSTRUCTING WINDSHIELDS, AND WINDOWS

(a) Prohibition. Except as otherwise provided in this section, ~~a person~~ an individual shall not operate a motor vehicle on which material or items have been painted or adhered on or over, or hung in back of, any transparent part of a motor vehicle windshield, vent windows, or side windows located immediately to the left and right of the operator. The prohibition of this section on hanging items shall apply ~~only~~ to shading or tinting material or when a hanging item materially obstructs the driver's view.

(b) General exemptions. Notwithstanding subsection (a) of this section, a ~~person~~ an individual may operate a motor vehicle with material or items painted or adhered on or over, or hung in back of, the windshield, vent

windows, or side windows:

(1) in a space not over four inches high and 12 inches long in the lower right-hand corner of the windshield;

(2) in such space as the Commissioner of Motor Vehicles may specify for location of any sticker required by governmental regulation;

(3) in a space not over two inches high and two and one-half inches long in the upper left-hand corner of the windshield;

(4) if the operator is ~~a person~~ an individual employed by the federal, State, or local government or a volunteer emergency responder operating an authorized emergency vehicle, who places any necessary equipment in back of the windshield of the vehicle, provided the equipment does not interfere with the operator's control of the driving mechanism of the vehicle;

(5) on a motor vehicle that is for sale by a licensed automobile dealer prior to the sale of the vehicle, in a space not over three inches high and six inches long in the upper left-hand corner of the windshield, and in a space not over four inches high and 18 inches long in the upper right-hand corner of the windshield; ~~or~~

(6) if the object is a rearview mirror; or is an electronic toll-collection transponder located either between the roof line and the rearview mirror post or behind the rearview mirror; or

(7) if the object is shading or tinting material and the visible light transmission of that shading or tinting material is not less than the level of visible light transmission required under 49 C.F.R. § 571.205, as amended.

(c) Medical exemption. The Commissioner may grant an exemption to the prohibition of this section upon application from ~~a person~~ an individual required for medical reasons to be shielded from the rays of the sun and who attaches to the application a document signed by a licensed physician or optometrist certifying that shielding from the rays of the sun is a medical necessity. The physician or optometrist certification shall be renewed every four years. However, when a licensed physician or optometrist has previously certified to the Commissioner that an applicant's condition is both permanent and stable, the exemption may be renewed by the applicant without submission of a form signed by a licensed physician or optometrist. Additionally, the window shading or tinting permitted under this subsection shall be limited to the vent windows or side windows located immediately to the left and right of the operator. The exemption provided in this subsection shall terminate upon the transfer of the approved vehicle and at that time the applicable window tinting shall be removed by the seller. ~~Furthermore, if the material described~~

~~in this subsection tears or bubbles or is otherwise worn to prohibit clear vision, it shall be removed or replaced.~~

(d) Rear side window obstructions. The rear side windows and the back window may be obstructed only if the motor vehicle is equipped on each side with a securely attached mirror, ~~which~~ that provides the operator with a clear view of the roadway in the rear and on both sides of the motor vehicle.

(e) Removal. Any shading or tinting material that is painted or adhered on or over, or hung in back of, the windshield, vent windows, or side windows in accordance with subdivision (b)(7) or subsection (c) of this section shall be removed if it tears, bubbles, or is otherwise worn to prohibit clear vision.

(f) Definition. As used in this section, “visible light transmission” means the amount of visible light that can pass through shading, tinting, or glazing material applied to or within the transparent portion of a window or windshield of a motor vehicle.

Sec. 15. LEGISLATIVE INTENT; TINTED WINDOWS

It is the intent of the General Assembly that a motor vehicle with shading or tinting material that is not allowed under 23 V.S.A. § 1125, as amended by Sec. 14 of this act, poses a danger to the individual operating the motor vehicle, any passengers in the motor vehicle, and other highway users and that such a motor vehicle shall fail the annual safety inspection required under 23 V.S.A. § 1222.

Sec. 16. RULEMAKING; PERIODIC INSPECTION MANUAL; TINTED WINDOWS; OUTREACH

(a) The Department of Motor Vehicles shall, unless extended by the Legislative Committee on Administrative Rules, adopt amendments to Department of Motor Vehicles, Inspection of Motor Vehicles (CVR 14-050-022) consistent with the legislative intent in Sec. 15 of this act to be effective not later than the effective date of Sec. 14 of this act. The amendments shall include what level of visible light transmission is required for windshields and the windows to the immediate right and left of the driver under 49 C.F.R. § 571.205 as of the effective date of the amendments.

(b) The Department of Motor Vehicles, in consultation with the Department of Public Safety, shall implement a public outreach campaign on window tinting to provide information on the prohibitions and exceptions under 23 V.S.A. § 1125, as amended by Sec. 14 of this act, and the requirements of the Inspection of Motor Vehicles (CVR 14-050-022), with amendments adopted under the Administrative Procedure Act consistent with subsection (a) of this section, including what level of visible light transmission

is currently required for windshields and the windows to the immediate right and left of the driver under 49 C.F.R. § 571.205. The Department of Motor Vehicles shall start to disseminate information as required under this subsection (b) not later than two months prior to the effective date of Sec. 14 of this act and shall disseminate information on window tinting through e-mail, bulletins, software updates, and the Department of Motor Vehicles' website.

* * * Rusted Brake Rotors; Safety Inspection * * *

Sec. 17. RUSTED BRAKE ROTORS; LEGISLATIVE INTENT;
BULLETIN; CONTACT INFORMATION FOR FAILURES

(a) Legislative intent. It is the intent of the General Assembly that:

(1) the Department of Motor Vehicles provide information on the existing definition of "rust" in Department of Motor Vehicles, Inspection of Motor Vehicles (CVR 14-050-022) (Periodic Inspection Manual), which is "a condition of any swelling, delamination, or pitting," to all inspection mechanics certified by the Commissioner of Motor Vehicles so there is consistency amongst inspection stations in how the Periodic Inspection Manual is interpreted and applied.

(2) that the presence of rust on brake rotors, by itself, does not constitute a failure for the purpose of the annual safety inspection required under 23 V.S.A. § 1222 and that the presence of rust that is temporary, also known as surface rust, which sometimes results from the vehicle being parked for a period of time, not be sufficient for a motor vehicle to fail inspection because such rust does not cause diminished braking performance that prevents a motor vehicle from adequately stopping.

(b) Bulletin. The Department of Motor Vehicles shall issue a clarifying administrative bulletin to all inspection mechanics certified by the Commissioner of Motor Vehicles that:

(1) details the rejection criteria for rotors and drums in the Periodic Inspection Manual;

(2) explains the difference between surface rust and rust that is considerable for purposes of determining if the rejection criteria are met, which requires that the existing rust be "a condition of any swelling, delamination, or pitting"; and

(3) provides information that an inspection mechanic shall provide to the owner of a vehicle that fails inspection because of rusting on rotors and drums.

(c) Contact information. The Department of Motor Vehicles shall include how to contact the Department of Motor Vehicles with questions about the annual safety inspection and the Periodic Inspection Manual on all notices of failure issued by inspection mechanics certified by the Commissioner of Motor Vehicles.

* * * Emergency Warning Lamps and Sirens * * *

Sec. 18. 23 V.S.A. § 1251 is amended to read:

§ 1251. ~~SIRENS AND COLORED SIGNAL~~ EMERGENCY WARNING LAMPS; OUT-OF-STATE EMERGENCY AND RESCUE VEHICLES

(a) Prohibition. A motor vehicle shall not be operated upon a highway of this State equipped with any of the following:

(1) a siren or signal lamp colored other than amber unless either a permit authorizing this equipment the siren, issued by the Commissioner of Motor Vehicles, is carried in the vehicle or a permit is not required pursuant to section 1252 of this subchapter;

(2) an emergency warning lamp unless either a permit authorizing the emergency warning lamp, issued by the Commissioner, is carried in the vehicle or a permit is not required pursuant to section 1252 of this subchapter;

(3) a blue light of any kind unless either a permit authorizing the blue light, issued by the Commissioner, is carried in the vehicle or a permit is not required pursuant to section 1252 of this subchapter; or

(4) a lamp or lamps that are not emergency warning lamps and provide a flashing light in a color other than amber, except that this prohibition shall not apply to a motorcycle headlamp modulation system that meets the criteria specified in Federal Motor Vehicle Safety Standard 108, codified at 49 C.F.R. § 571.108.

(b) Permit transfer. A permit may be transferred following the same procedure and subject to the same time limits as set forth in section 321 of this title. The Commissioner may adopt additional rules as may be required to govern the acquisition of permits and the use pertaining to sirens and ~~colored signal~~ emergency warning lamps.

(b)(c) Exception for vehicles from another state. Notwithstanding the provisions of subsection (a) of this section, when responding to emergencies, law enforcement vehicles, ambulances, fire vehicles, or vehicles owned or leased by, or provided to, volunteer firefighters or rescue squad members that are registered or licensed by another state or province may use sirens and

~~signal emergency warning~~ lamps in Vermont, and a permit shall not be required for such use, ~~as long as provided~~ the vehicle is properly permitted or otherwise permitted to use the sirens and emergency warning lamps without permit in its home state or province.

Sec. 19. 23 V.S.A. § 1252 is amended to read:

§ 1252. LAW ENFORCEMENT AND EMERGENCY SERVICES VEHICLES; ISSUANCE OF PERMITS FOR SIRENS OR COLORED EMERGENCY WARNING LAMPS, OR BOTH; USE OF AMBER LAMPS

(a) Law enforcement vehicles.

~~(1) When satisfied as to the condition and use of the vehicle, the Commissioner shall issue and may revoke, for cause, permits for sirens and colored signal lamps in the following manner~~ Law enforcement vehicles owned and operated by the government. The following are authorized for use, without permit, on all law enforcement vehicles owned or leased by the federal government, a municipality, a county, the State, or the Vermont Criminal Justice Council:

~~(1)(A) Sirens, blue signal emergency warning lamps, or blue and white signal emergency warning lamps, or a combination thereof, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Council.~~

~~(B) A red signal emergency warning lamp or an a red and amber signal emergency warning lamp, or a combination thereof, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Council, provided that the Commissioner shall require the emergency warning lamp or lamps be is mounted so as to be visible primarily from the rear of the vehicle.~~

~~(C)(2) Law enforcement vehicles owned or leased by a certified law enforcement officer.~~

(A) When satisfied as to the condition and use of the vehicle, the Commissioner shall issue and may revoke, for cause, permits for sirens and emergency warning lamps in the following manner:

(i) sirens, blue emergency warning lamps, or blue and white emergency warning lamps, or a combination thereof; and

(ii) a red emergency warning lamp or a red and amber emergency warning lamp, provided that the emergency warning lamp is mounted so as to be visible primarily from the rear of the vehicle.

(B) No motor vehicle, other than one owned by the applicant, shall be issued a permit until the Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

(3) Law enforcement vehicles owned or leased by a certified constable.

(A) ~~If the applicant is a~~ The following are authorized for use, without permit, on all law enforcement vehicles owned or leased by a Vermont Criminal Justice Council certified constable, ~~the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town~~ for a municipality that has not voted to limit the constable's authority to engage in enforcement activities under 24 V.S.A. § 1936a: a red emergency warning lamp or a red and amber emergency warning lamp, provided that the emergency warning lamp is mounted so as to be visible primarily from the rear of the vehicle.

(B) A constable for a municipality that has voted to limit the constable's authority to engage in enforcement activities under 24 V.S.A. § 1936a shall not operate, in the course of the constable's elected duties, a motor vehicle with a siren or an emergency warning lamp.

(2)(b) Emergency services vehicles.

(1) Emergency services vehicles owned and operated by the government. The following are authorized for use, without permit, on all emergency services vehicles owned or leased by the federal government, a municipality, or the State:

(A) sirens and red emergency warning lamps or red and white emergency warning lamps; and

(B) a blue emergency warning lamp or a blue and amber emergency warning lamp provided that the emergency warning lamp is mounted so as to be visible primarily from the rear of the vehicle.

(2) Emergency services vehicles not owned and operated by the government.

(A) When satisfied as to the condition and use of the vehicle, the Commissioner shall issue and may revoke, for cause, permits for sirens and emergency warning lamps in the following manner:

(i) Sirens and red emergency warning lamps or red and white ~~signal~~ emergency warning lamps may be authorized for all ambulances and

other emergency medical service (EMS) vehicles, vehicles owned or leased by a fire department, vehicles used solely in rescue operations, or vehicles owned or leased by, or provided to, volunteer firefighters and voluntary rescue squad members, including a vehicle owned by a volunteer's employer when the volunteer has the written authorization of the employer to use the vehicle for emergency fire or rescue activities.

~~(B)(ii)~~ A blue signal emergency warning lamp or ~~an a blue and amber signal emergency warning lamp, or a combination thereof,~~ may be authorized for all EMS vehicles or vehicles owned or leased by a fire department, provided that the Commissioner shall require the emergency warning lamp or lamps be mounted so as to be visible primarily from the rear of the vehicle.

~~(3) [Repealed.]~~

~~(4)(B)~~ No motor vehicle, other than one owned by the applicant, shall be issued a permit until the Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

~~(5)(C)~~ Upon application to the Commissioner, the Commissioner may issue a single permit for all the vehicles owned or leased by the applicant.

~~(6)(c)~~ Sirens and Restored vehicles. A combination of one or more of red ~~or signal lamps,~~ red and white signal lamps ~~or sirens and,~~ blue signal lamps, or blue and white signal lamps may be authorized for restored emergency or enforcement vehicles used for exhibition purposes. Sirens and lamps authorized under this ~~subdivision subsection~~ may only be activated during an exhibition, such as a car show or parade.

~~(b)(d)~~ Amber signal lamps. Amber signal lamps shall be used on road maintenance vehicles, service vehicles, and wreckers and shall be used on all registered snow removal equipment when in use removing snow on public highways, and the amber lamps shall be mounted so as to be visible from all sides of the motor vehicle.

Sec. 20. 23 V.S.A. § 1254 is added to read:

§ 1254. EMERGENCY WARNING LAMP; DEFINITION

As used in sections 1251–1255 of this subchapter, “emergency warning lamp”:

(1) means a lamp or lamps that provide a flashing light to identify an authorized vehicle on an emergency mission that may be a rotating beacon or pairs of alternately or simultaneously flashing lamps; and

(2) does not include a lamp or lamps that provide an exclusively amber flashing light.

Sec. 21. 23 V.S.A. § 1255(b) is amended to read:

(b) All persons with motor vehicles equipped as provided in ~~subdivisions subsections 1252(a)(1) and (2)(b)~~ of this ~~title subchapter~~ shall use the sirens or ~~colored-signal emergency warning~~ lamps, or both, only in the direct performance of their official duties. When any ~~person individual~~ other than a law enforcement officer is operating a motor vehicle equipped as provided in ~~subdivision subsection 1252(a)(1)~~ of this ~~title subchapter~~, the ~~colored-signal emergency warning~~ lamps shall be either removed, covered, or hooded. When any ~~person individual~~ other than an authorized emergency medical service vehicle operator, firefighter, or authorized operator of vehicles used in rescue operations is operating a motor vehicle equipped as provided in ~~subdivision subsection 1252(a)(2)(b)~~ of this ~~title subchapter~~, the ~~colored-signal emergency warning~~ lamps shall be either removed, covered, or hooded unless the operator holds a senior operator license.

Sec. 22. 23 V.S.A. § 4(1) is amended to read:

(1) “Authorized emergency vehicle” means a vehicle of a fire department, ~~police~~ law enforcement vehicle, public and private ambulance, and a vehicle ~~to which a permit has been issued pursuant to subdivision 1252(a)(1) or (2)~~ equipped as provided in subsections 1252(a) and (b) of this title.

Sec. 23. 23 V.S.A. § 1050a(b) is amended to read:

(b) The driver of a vehicle shall yield the right of way to any authorized vehicle obviously and actually engaged in work upon a highway when the vehicle displays flashing lights meeting the requirements of subsection 1252(b)(d) of this title.

* * * Child Restraint Systems * * *

Sec. 24. 23 V.S.A. § 1258 is amended to read:

§ 1258. CHILD RESTRAINT SYSTEMS; PERSONS INDIVIDUALS UNDER AGE 18 YEARS OF AGE

(a) No ~~person individual~~ shall operate a motor vehicle, other than a type I school bus, in this State upon a public highway unless every occupant under age 18 years of age is properly restrained in a federally approved child ~~passenger-restraining~~ restraint system as defined in 49 C.F.R. § 571.213, as may be amended, or a federally approved safety belt, as follows:

(1) ~~all children~~ a child under the two years of age ~~of one and all children~~

~~weighing less than 20 pounds, regardless of age, shall be restrained in a rear-facing position, properly secured in a federally approved child passenger restraining rear-facing child restraint system with a harness, which shall not be installed in front of an active air bag as those terms are defined in 49 C.F.R. § 571.213, as may be amended;~~

~~(2) a child weighing more than 20 pounds, and who is one year of age or older and under the age of eight five years, of age who is not properly secured in a federally approved rear-facing child restraint system in accordance with subdivision (1) of this subsection shall be restrained in a child passenger restraining system properly secured in a forward-facing federally approved child restraint system with a harness until the child reaches the weight or height limit of the child restraint system as set by the manufacturer; and~~

~~(3) a child under eight years of age who is not properly secured in a federally approved child restraint system in accordance with subdivision (1) or (2) of this subsection shall be properly secured in a booster seat, as defined in 49 C.F.R. § 571.213, as may be amended;~~

~~(4) a child eight through 17 under 18 years of age who is not properly secured in a federally approved child restraint system in accordance with subdivision (1), (2), or (3) of this subsection shall be restrained in a safety belt system ~~or a child passenger restraining system;~~~~

~~(5) a child under 13 years of age shall always, if practical, ride in a rear seat of a motor vehicle; and~~

~~(6) no child shall be secured in a rear-facing child restraint system in the front seat of a motor vehicle that is equipped with an active passenger-side airbag unless the airbag is deactivated.~~

~~(b) A ~~person~~ An individual shall not be adjudicated in violation of this section if:~~

~~(1) the motor vehicle is regularly used to transport passengers for hire, except a motor vehicle owned or operated by a child care facility;~~

~~(2) the motor vehicle was manufactured without safety belts; or~~

~~(3) the ~~person~~ individual has been ordered by an enforcement officer, a firefighter, or an authorized civil authority to evacuate ~~persons~~ individuals from a stricken area.~~

~~(c) The civil penalty for violation of this section shall be as follows:~~

~~(1) \$25.00 for a first violation;~~

- (2) \$50.00 for a second violation; and
- (3) \$100.00 for third and subsequent violations.

Sec. 25. CHILD RESTRAINT SYSTEMS; PUBLIC OUTREACH
CAMPAIGN

(a) The Department of Health, in consultation with the State Highway Safety Office, shall implement a public outreach campaign on car seat safety that builds upon the current Be Seat Smart program; utilizes materials on child safety prepared by the U.S. Department of Transportation, Traffic Safety Marketing; is consistent with the recommendations from the American Academy of Pediatrics in the Child Passenger Safety Policy Statement published in 2018; and educates Vermonters on 23 V.S.A. § 1258, as amended by Sec. 24 of this act.

(b) The public outreach campaign shall disseminate information on car seat safety through e-mail; a dedicated web page on car seat safety that is linked through the websites for the Agency of Transportation and the Department of Health; social media platforms; community posting websites; radio; television; and informational materials that can be printed and shall be made available to all pediatricians, obstetricians, and midwives licensed in the State and all Car Seat Inspection Stations in the State.

* * * Exempt Vehicle Title * * *

Sec. 26. 23 V.S.A. § 2001(15) is amended to read:

(15) “Title or certificate of title” means a written instrument or document that certifies ownership of a vehicle and is issued by the Commissioner or equivalent official of another jurisdiction. These terms do not include an exempt vehicle title ~~authorized to be issued under subdivision 2013(a)(2) of this chapter.~~

Sec. 27. 23 V.S.A. § 2002(a)(1) is amended to read:

(1) for any certificate of title, including a salvage certificate of title, ~~or an exempt vehicle title, \$42.00;~~

Sec. 28. 23 V.S.A. § 2012 is amended to read:

§ 2012. EXEMPTED VEHICLES

No certificate of title need be obtained for:

* * *

(10) a vehicle that is more than 15 years old on January 1, 2024 that has been registered in Vermont and has not had a change in ownership since January 1, 2024.

Sec. 29. 23 V.S.A. § 2016 is amended to read:

§ 2016. COMMISSIONER TO CHECK IDENTIFICATION NUMBER

The Commissioner, upon receiving application for a first certificate of title ~~or exempt vehicle title~~, shall check the identification number of the vehicle shown in the application against the records of vehicles required to be maintained by section 2017 of this title and against the record of stolen and converted vehicles required to be maintained by section 2084 of this title.

Sec. 30. 23 V.S.A. § 2021 is amended to read:

§ 2021. REFUSAL OF CERTIFICATE

The Commissioner shall refuse issuance of a certificate of title ~~or an exempt vehicle title~~ if any required fee is not paid or ~~if he or she~~ the Commissioner has reasonable grounds to believe that:

* * *

* * * Vessels * * *

* * * Fire Extinguishers * * *

Sec. 31. 23 V.S.A. § 3306 is amended to read:

§ 3306. LIGHTS AND EQUIPMENT

* * *

(c) ~~Every motorboat, except a motorboat that is less than 26 feet in length, that has an outboard motor and an open construction, and is not carrying passengers for hire shall carry on board, fully charged and in good condition, U.S. Coast Guard-approved hand portable fire extinguishers~~ U.S. Coast Guard-approved hand portable fire extinguishers that are unexpired, fully charged, and in both good and serviceable condition shall be carried on board every motorboat as follows:

(1) motorboats with no fixed fire extinguisher system in the machinery space and that are:

(A) less than 26 feet in length, not fewer than one extinguisher;

(B) 26 feet or longer, but less than 40 feet, not fewer than two extinguishers; and

(C) 40 feet or longer, not fewer than three extinguishers; and

(2) motorboats with a fixed fire extinguisher system in the machinery space and that are:

(A) less than 26 feet in length, no extinguishers required;

(B) 26 feet or longer but less than 40 feet, not fewer than one extinguisher; and

~~(B)~~(C) 40 feet or longer, not fewer than two extinguishers.

(d) Notwithstanding subsection (c) of this section, motorboats less than 26 feet in length, propelled by outboard motors, and not carrying passengers for hire need not carry portable fire extinguishers if the construction of the boats will not permit the entrapment of explosive or flammable gases or vapors.

(e)(1) The extinguishers referred to by this section are class B-I or 5-B extinguishers, but one class B-II or 20-B extinguisher may be substituted for two class B-I or 5-B extinguishers, in compliance with 46 C.F.R. Subpart 25.30, as amended.

(2) Notwithstanding subdivision (1) of this subsection, motorboats with a model year between 1953 and 2017 with previously approved fire extinguishers that are not in compliance with the types identified in subdivision (1) of this subsection need not be replaced until such time as they are no longer in good and serviceable condition.

(e)(f) Every marine toilet on board any vessel operated on the waters of the State shall also incorporate or be equipped with a holding tank. Any holding tank or marine toilet designed so as to provide for an optional means of discharge to the waters on which the vessel is operating shall have the discharge openings sealed shut and any discharge lines, pipes, or hoses shall be disconnected and stored while the vessel is in the waters of this State.

(f)(g) Nothing in this section shall be construed to prevent the discharge of adequately treated wastes from any vessel operating under the provisions of a valid discharge permit issued by the Department of Environmental Conservation.

(g)(h) Motorboats operated on waters that the U.S. Coast Guard has determined to be navigable waters of the United States and therefore subject to the jurisdiction of the United States must have lights and other safety equipment as required by U.S. Coast Guard rules and regulations.

* * * Vermont Numbering Provisions * * *

Sec. 32. 23 V.S.A. § 3307(a) is amended to read:

(a) A motorboat is not required to have a Vermont number under this chapter if it is:

(1) already covered by a number in effect that has been awarded to it under federal law or a federally approved numbering system of another state if the boat has not been within the State for more than 90 60 days;

(2) a motorboat from a country other than the United States if the boat has not been within the State for more than 90 60 days;

* * *

* * * Commercial Driver's Licenses and Permits; * * *

* * * Prohibition on Masking or Diversion * * *

Sec. 33. 23 V.S.A. § 4122 is amended to read:

§ 4122. DEFERRING IMPOSITION OF SENTENCE; PROHIBITION ON MASKING OR DIVERSION

(a) No judge or court, State's Attorney, or law enforcement officer may utilize the provisions of 13 V.S.A. § 7041 or any other program to defer imposition of sentence or judgment if the defendant holds a commercial driver's license or was operating a commercial motor vehicle when the violation occurred and is charged with violating any State or local traffic law other than a parking violation.

(b) In accordance with 49 C.F.R. § 384.226, no court, State's Attorney, or law enforcement officer may mask or allow an individual to enter into a diversion program that would prevent a commercial learner's permit holder's or commercial driver's license holder's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law other than parking, vehicle weight, or vehicle defect violations from appearing on the Commercial Driver's License Information System (CDLIS) driver record.

* * * Airbags * * *

Sec. 34. 13 V.S.A. § 2026 is amended to read:

§ 2026. INSTALLATION OF OBJECT IN LIEU OF AIR BAG

(a) No person shall knowingly:

(1) manufacture, import, distribute, offer for sale, sell, lease, transfer, install, or reinstall, or knowingly cause to be installed, or cause to be reinstalled: a counterfeit automobile supplemental restraint system component, a nonfunctional airbag, or

(1) an object in lieu of a vehicle air bag that was designed in accordance with the federal safety regulation an automobile supplement restraint system component, when the object does not comply with the requirements of

49 C.F.R. § 571.208, as amended, for the make, model, and year of a vehicle;
or

(2) an inoperable vehicle air bag, knowing the air bag is inoperable install or reinstall as an automobile supplemental restraint system component anything that causes the diagnostic system for a motor vehicle to fail to warn the motor vehicle operator that an airbag is not installed or fail to warn the motor vehicle operator that a counterfeit automobile supplemental restraint system component or nonfunctional airbag is installed in the motor vehicle.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than three years or fined not more than \$10,000.00, or both.

(c) A person who violates subsection (a) of this section, and serious bodily injury, as defined in section 1021 of this title, or death results, shall be imprisoned for not more than 15 years or fined not more than \$10,000.00, or both.

(d) As used in this section:

(1) “Airbag” means an inflatable restraint device for occupants of motor vehicles that is part of an automobile supplemental restraint system.

(2) “Automobile supplemental restraint system” means a passive inflatable crash protection system that a vehicle manufacturer designs to protect automobile occupants in the event of a collision in conjunction with a seat belt assembly, as defined in 49 C.F.R. § 571.209, and that consists of one or more airbags and all components required to ensure that each airbag:

(A) operates as designed in a crash; and

(B) meets federal motor vehicle safety standards for the specific make, model, and year of manufacture of the vehicle in which the airbag is installed.

(3) “Counterfeit automobile supplemental restraint system component” means a replacement component, including an airbag, for an automobile supplemental restraint system that without the authorization of a manufacturer, or a person that supplies parts to the manufacturer, displays a trademark that is identical or substantially similar to the manufacturer’s or supplier’s genuine trademark.

(4) “Install” and “reinstall” require the completion of installation work related to the automobile supplemental restraint system of a motor vehicle and either:

(A) for the motor vehicle to be returned to the owner or operator; or

(B) for the transfer of title for the motor vehicle.

(5) “Nonfunctional airbag” means a replacement airbag that:

(A) was previously deployed or damaged;

(B) has a fault that the diagnostic system for a motor vehicle detects once the airbag is installed;

(C) may not be sold or leased under 49 U.S.C. § 30120(j); or

(D) includes a counterfeit automobile supplemental restraint system component or other part or object that is installed for the purpose of misleading a motor vehicle owner or operator into believing that a functional airbag is installed.

(6) “Nonfunctional airbag” does not include an unrepaired deployed airbag or an airbag that is installed in a motor vehicle:

(A) that is a totaled motor vehicle, as defined in 23 V.S.A. § 2001(14); or

(B) for which the owner was issued a salvaged certificate of title pursuant to 23 V.S.A. § 2091 or a similar title from another state.

* * * Licensed Dealers; Used Vehicle Sales; Disclosures * * *

Sec. 35. 23 V.S.A. § 466 is amended to read:

§ 466. RECORDS; DISCLOSURES; CUSTODIAN

(a) On a form prescribed or approved by the Commissioner, every licensed dealer shall maintain and retain for six years a record containing the following information, which shall be open to inspection by any law enforcement officer or motor vehicle inspector or other agent of the Commissioner during reasonable business hours:

(1) Every vehicle or motorboat that is bought, sold, or exchanged by the licensee or received or accepted by the licensee for sale or exchange.

(2) Every vehicle or motorboat that is bought or otherwise acquired and dismantled by the licensee.

(3) The name and address of the person from whom such vehicle or motorboat was purchased or acquired, the date thereof, the name and address of the person to whom any such vehicle or motorboat was sold or otherwise disposed of and the date thereof, and a sufficient description of every such vehicle or motorboat by name and identifying numbers thereon to identify the same.

(4) [Repealed.]

(b)(1) On a form prescribed or approved by the Commissioner, a licensed dealer shall provide written disclosure to each buyer of a used motor vehicle regarding the following:

(A) the month in which the vehicle was last inspected pursuant to section 1222 of this title;

(B) the month in which the inspection shall expire;

(C) whether the most recent inspection was by the dealer currently selling the motor vehicle;

(D) a statement that the condition of the motor vehicle may be different than the condition at the last inspection, unless inspected by the dealer selling the vehicle for the current transaction;

(E) a statement regarding the right of a potential buyer to have the vehicle inspected by an independent qualified mechanic of their choice and at their own expense; and

(F) a clear and conspicuous statement, if applicable, that the vehicle is being transferred without an inspection sticker, with an expired inspection sticker, or with an inspection sticker from another state.

(2) The licensed dealer shall maintain and retain record of the disclosure statement, signed by both the dealer and the buyer, for two years after transfer of ownership. The record shall be open to inspection by any law enforcement officer or motor vehicle inspector or other agent of the Commissioner during reasonable business hours.

(c) Every licensed dealer shall designate a custodian of documents who shall have primary responsibility for administration of documents required to be maintained under this title. In the absence of the designated custodian, the dealer shall have an ongoing duty to make such records available for inspection by any law enforcement officer or motor vehicle inspector or other agent of the Commissioner during reasonable business hours.

* * * DMV Credentials and Number Plates; Veteran Designations * * *

Sec. 36. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly for the State to properly honor veterans, which includes Vermonters who have served in the active military, naval, air, or space service, and who have been discharged or released from active service under conditions other than dishonorable, where active military, naval, air, or space service includes:

(1) active duty;

(2) any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty; and

(3) any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty or from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident occurring during such training.

(b) It is also the intent of the General Assembly that the Department of Motor Vehicles and the Vermont Office of Veterans' Affairs:

(1) jointly determine which specialty plates should be offered to veterans so as to ensure specific recognition for those who have received a military award or decoration and those who have served in combat; and

(2) allow for a means for a veteran to request that a new specialty plate be designed and offered to veterans when an existing specialty plate does not provide for specific recognition of the veteran.

Sec. 37. 23 V.S.A. § 7(b) is amended to read:

(b) In addition to any other requirement of law or rule, before an enhanced license may be issued to ~~a person~~ an individual, the ~~person~~ individual shall present for inspection and copying satisfactory documentary evidence to determine identity and U.S. citizenship. An application shall be accompanied by: a photo identity document, documentation showing the ~~person's~~ individual's date and place of birth, proof of the ~~person's~~ individual's Social Security number, and documentation showing the ~~person's~~ individual's principal residence address. New and renewal application forms shall include a space for the applicant to request that a "veteran" designation be placed on the enhanced license. If a veteran, as defined in 38 U.S.C. § 101(2) and including an individual disabled during active military, naval, air, or space service, as defined in 38 U.S.C. § 101(24), requests a veteran designation and provides a Department of Defense Form 214 or other proof of veteran status specified by the Commissioner, and the Office of ~~Veterans~~ Veterans' Affairs confirms ~~his or her~~ the individual's status as an honorably discharged veteran ~~or~~; a veteran discharged under honorable conditions; or an individual disabled during active military, naval, air, or space service, the identification card shall include the term "veteran" on its face. To be issued, an enhanced license must meet the same requirements as those for the issuance of a U.S. passport. Before an application may be processed, the documents and information shall be verified as determined by the Commissioner. Any additional personal identity information not currently required by the U.S. Department of Homeland Security shall need the approval of either the General Assembly or

the Legislative Committee on Administrative Rules prior to the implementation of the requirements.

Sec. 38. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

(a) Any Vermont resident may make application to the Commissioner and be issued an identification card that is attested by the Commissioner as to true name, correct age, residential address unless the listing of another address is requested by the applicant or is otherwise authorized by law, and any other identifying data as the Commissioner may require that shall include, in the case of minor applicants, the written consent of the applicant's parent, guardian, or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the Commissioner may require, consistent with subsection (1) of this section. New and renewal application forms shall include a space for the applicant to request that a "veteran" designation be placed on the applicant's identification card. If a veteran, as defined in 38 U.S.C. § 101(2) and including an individual disabled during active military, naval, air, or space service, as defined in 38 U.S.C. § 101(24), requests a veteran designation and provides a Department of Defense Form 214 or other proof of veteran status specified by the Commissioner, and the Office of ~~Veterans~~ Veterans' Affairs confirms the veteran's status as an honorably discharged veteran ~~or~~; a veteran discharged under honorable conditions; or an individual disabled during active military, naval, air, or space service, the identification card shall include the term "veteran" on its face. The Commissioner shall require payment of a fee of \$29.00 at the time application for an identification card is made, except that an initial nondriver identification card shall be issued at no charge to an individual who surrenders the individual's license in connection with a suspension or revocation under subsection 636(b) of this title due to a physical or mental condition.

* * *

Sec. 39. 23 V.S.A. § 304 is amended to read:

§ 304. REGISTRATION CERTIFICATES; NUMBER PLATES; VANITY
AND OTHER SPECIAL PLATES

* * *

(j) The Commissioner of Motor Vehicles shall, upon proper application, issue special plates to Vermont veterans, as defined in 38 U.S.C. § 101(2) and including an individual disabled during active military, naval, air, or space service, as defined in 38 U.S.C. § 101(24), and to members of the U.S. Armed

Forces, as defined in 38 U.S.C. § 101(10), for use on vehicles registered at the pleasure car rate, on vehicles registered at the motorcycle rate, and on trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan. The type and style of the ~~plate~~ plates shall be determined by the Commissioner, ~~except that an American flag, or a veteran or military-related emblem selected by the Commissioner and the Vermont Office of Veterans' Affairs shall appear on one side of the plate.~~ At a minimum, ~~emblems shall be available to recognize recipients of the Purple Heart, Pearl Harbor survivors, former prisoners of war, and disabled veterans.~~ An applicant shall apply on a form prescribed by the Commissioner, and the applicant's eligibility as a member of one of the groups recognized will be certified by the Office of Veterans' Affairs. The plates shall be reissued only to the original holder of the plates or the surviving spouse. The Commissioner may adopt rules to implement the provisions of this subsection. Except for new or renewed registrations, applications for the issuance of plates under this subsection shall be processed in the order received by the Department subject to normal workflow considerations. The costs associated with developing new emblems shall be borne by the Department of Motor Vehicles.

* * *

Sec. 40. 23 V.S.A. § 610(a) is amended to read:

(a) The Commissioner shall assign a distinguishing number to each licensee and shall furnish the licensee with a license certificate that shows the number and the licensee's full name, date of birth, and residential address, except that at the request of the licensee, the licensee's mailing address may be listed, or an alternative address may be listed if otherwise authorized by law. The certificate also shall include a brief physical description and a space for the signature of the licensee. The license shall be void until signed by the licensee. If a veteran, as defined in 38 U.S.C. § 101(2) and including an individual disabled during active military, naval, air, or space service, as defined in 38 U.S.C. § 101(24), requests a veteran designation and provides proof of veteran status as specified in subdivision 603(a)(3) of this title, and the Office of ~~Veterans~~ Veterans' Affairs confirms ~~his or her~~ the individual's status as an honorably discharged veteran ~~or;~~ a veteran discharged under honorable conditions; or an individual disabled during active military, naval, air, or space service, the license certificate shall include the term "veteran" on its face.

Sec. 41. 23 V.S.A. § 4111 is amended to read:

§ 4111. COMMERCIAL DRIVER'S LICENSE

(a) Contents of license. A commercial driver's license shall be marked "commercial driver's license" or "CDL" and shall be, to the maximum extent practicable, tamper proof and shall include the following information:

* * *

(12) A veteran designation if a veteran, as defined in 38 U.S.C. § 101(2) and including an individual disabled during active military, naval, air, or space service, as defined in 38 U.S.C. § 101(24), requests the designation and provides proof of veteran status as specified in subdivision 4110(a)(5) of this title, and if the Office of ~~Veterans~~ Veterans' Affairs confirms ~~his or her~~ the individual's status as an honorably discharged veteran ~~or~~; a veteran discharged under honorable conditions; or an individual disabled during active military, naval, air, or space service.

* * *

* * * Conservation Motor Vehicle License Plates; Motorcycles * * *

Sec. 42. 23 V.S.A. § 304b is amended to read:

§ 304b. CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

(a) The Commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate, on motorcycles, on trucks registered for less than 26,001 pounds, and on vehicles registered to State agencies under section 376 of this title, but excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle, except that a motorcycle plate shall be mounted only on the rear of the motorcycle. The Commissioners of Motor Vehicles and of Fish and Wildlife shall determine the graphic design of the special plates in a manner that serves to enhance the public awareness of the State's interest in restoring and protecting its wildlife and major watershed areas. The Commissioners of Motor Vehicles and of Fish and Wildlife may alter the graphic design of these special plates, provided that plates in use at the time of a design alteration shall remain valid subject to the operator's payment of the annual registration fee. Applicants shall apply on forms prescribed by the Commissioner and shall pay an initial fee of \$32.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall pay a renewal fee of \$32.00. The Commissioner may adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection.

* * *

* * * Use of Roadway by Pedestrians, Bicycle Operators, and
Vulnerable Users * * *

Sec. 43. 23 V.S.A. § 4(67) is amended to read:

(67) “Pedestrian” means any ~~person~~ individual ~~afoot or operating a wheelchair or other personal mobility device, whether motorized or not, and shall also include any person 16 years of age or older operating~~ including an electric personal assistive mobility device. ~~The age restriction of this subdivision shall not apply to a person who has an ambulatory disability as defined in section 304a of this title.~~

Sec. 44. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

* * *

(b) Approaching or passing vulnerable users. ~~The operator of~~ individual operating a motor vehicle approaching or passing a vulnerable user as defined in subdivision 4(81) of this title shall exercise due care, which includes reducing speed and increasing clearance to a ~~recommended~~ distance of at least four feet, to pass the vulnerable user safely, and shall cross the center of the highway only as provided in section 1035 of this title. ~~A person~~ An individual who violates this subsection shall be subject to a civil penalty of not less than \$200.00.

(c) Approaching or passing certain stationary vehicles. ~~The operator of~~ individual operating a motor vehicle approaching or passing a stationary sanitation, maintenance, utility, or delivery vehicle with flashing lights shall exercise due care, which includes reducing speed and increasing clearance to a recommended distance of at least four feet, to pass the vehicle safely, and shall cross the center of the highway only as provided in section 1035 of this title. ~~A person~~ An individual who violates this subsection shall be subject to a civil penalty of not less than \$200.00.

Sec. 45. 23 V.S.A. § 1055 is amended to read:

§ 1055. PEDESTRIANS ON ROADWAYS

(a) ~~Where public sidewalks are provided, no person may walk along or upon an adjacent roadway. [Repealed.]~~

(b) ~~Where public sidewalks are not provided, any~~ Any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing the direction of possible oncoming traffic.

Sec. 46. AGENCY OF TRANSPORTATION; DEPARTMENT OF PUBLIC SAFETY; IDAHO STOP STUDY; REPORT

The Agency of Transportation, in collaboration with the Department of Public Safety and in consultation with bicycle safety organizations and other relevant stakeholders, shall study the potential effects of implementing a statewide policy that grants an individual operating a bicycle rights and responsibilities at traffic-control devices and traffic-control signals that differ from those applicable to operators of motor vehicles. The study shall include consideration of the potential effects of allowing individuals operating bicycles to treat stop signs as yield signs and red lights at traffic signals as stop signs, also known as an “Idaho Stop,” and of allowing individuals operating bicycles to cross intersections during a pedestrian phase at pedestrian-control devices and pedestrian-control signals. On or before December 15, 2024, the Agency shall report to the House and Senate Committees on Transportation with its findings and recommendations.

Sec. 47. AGENCY OF TRANSPORTATION; ACTIVE TRANSPORTATION POLICY REPORT

(a) The Agency of Transportation shall prepare an Active Transportation Policy Report that provides a comprehensive review of Vermont statutes, including those in Titles 19 and 23, relating to the rights and responsibilities of vulnerable road users, in order to inform best practices and policy outcomes. The Agency shall develop the Report in consultation with relevant stakeholders identified by the Agency, which shall include bicycle safety organizations.

(b) On or before January 15, 2025, the Agency shall submit the written Active Transportation Policy Report, which shall include a summary of the Agency’s review efforts and any recommendations for revisions to Vermont statutes, to the House and Senate Committees on Transportation.

* * * License Plates for Plug-In Electric Vehicles * * *

Sec. 48. LICENSE PLATES FOR PLUG-IN ELECTRIC VEHICLES; FINDINGS

The General Assembly finds that:

(1) Plug-in electric vehicles (PEVs), which include plug-in hybrid electric vehicles and battery electric vehicles, provide new and unique challenges for first responders and firefighters when responding to the scene of a crash that may involve a PEV.

(2) PEVs are powered by high-voltage batteries, which means that if a PEV is involved in a crash resulting in a fire or in the need for extrication or

rescue, or a combination of these, then fire and rescue personnel must invoke special operations to suppress the fire or initiate the extrication or rescue operation.

(3) Other states and countries have begun noting whether or not a motor vehicle is a PEV with a designation on the vehicle's license plate.

(4) First responders and firefighters in Vermont will be in a better position to safely respond to a fire, extrication, or rescue involving a motor vehicle crash if they know whether one or more vehicles involved are a PEV, which can be done, in most instances, with a license plate designation.

Sec. 49. 23 V.S.A. § 304 is amended to read:

§ 304. REGISTRATION CERTIFICATES; NUMBER PLATES; VANITY
AND OTHER SPECIAL PLATES

* * *

(k) Not later than July 1, 2026, the Commissioner shall begin issuing number and vanity plates for plug-in electric vehicles, as defined in subdivision 4(85) of this title, indicating that the vehicle is a plug-in electric vehicle. Not later than July 1, 2028, all plug-in electric vehicles registered in this State shall display plates indicating that the vehicle is a plug-in electric vehicle.

Sec. 50. LICENSE PLATES FOR PLUG-IN ELECTRIC VEHICLES;
IMPLEMENTATION PROVISIONS; REPORT

(a) In accordance with 23 V.S.A. § 304(k), not later than July 1, 2026, the Commissioner of Motor Vehicles shall begin issuing number and vanity plates for plug-in electric vehicles (PEV) indicating that the vehicle is a PEV.

(b)(1) Upon the purchase of a PEV, the purchaser shall not transfer a non-PEV plate to the newly purchased PEV unless the plate is a vanity or special number plate.

(2) For the purchaser of a PEV whose previous plate was not a vanity or special number plate, the Commissioner shall issue a new PEV plate, which the purchaser shall install upon receipt.

(3) For the purchaser of a PEV whose previous plate was a vanity or special number plate and who wishes to retain that plate for the newly purchased PEV, the purchaser may transfer and display the existing plate until the Commissioner issues the purchaser a new vanity or special number plate indicating that the vehicle is a PEV, except as set forth in subsection (d) of this section. The purchaser shall install the new PEV plate upon receipt.

(c) An individual who owns a PEV on the effective date of this act may continue to display the individual's existing plate until the individual receives a new PEV plate from the Department of Motor Vehicles. The owner shall install the new PEV plate upon receipt.

(d) The Commissioner is authorized to reject existing plates for transfer or renewal due to space limitations on the new PEV plates.

(e) On or before March 15, 2025, the Department of Motor Vehicles shall provide testimony to the House and Senate Committees on Transportation regarding the status of its efforts to implement license plates for PEVs as set forth in this section and in 23 V.S.A. § 304(k).

* * * Distracted Driving Diversion Program * * *

Sec. 51. DISTRACTED DRIVING DIVERSION PROGRAM
RECOMMENDATIONS; REPORT

(a) The Community Justice Unit of the Office of the Attorney General, in consultation with the Court Diversion programs, the Vermont Judiciary, the Department of Motor Vehicles, and representatives of Vermont law enforcement agencies, shall evaluate the feasibility of and design options for establishing a distracted driving diversion program as an alternative to civil penalties and points for individuals who violate Vermont's distracted driving laws, including 23 V.S.A. §§ 1095a, 1095b, and 1099. The issues for the Community Justice Unit to consider shall include:

(1) whether conducting a distracted driving diversion program is feasible;

(2) if so, how such a distracted driving diversion program should be structured and administered;

(3) the age groups to which the program should be made available;

(4) performance outcome measures that indicate whether the program is reducing the participants' likelihood of future distracted driving;

(5) whether fees should be imposed for participation in the program and, if so, what those fees should be;

(6) the additional resources, if any, that would be needed to implement and administer the program; and

(7) whether diversion or other alternatives should be made available to address other driving-related violations, especially youth violations.

(b) On or before December 15, 2024, the Community Justice Unit shall submit its findings and recommendations regarding a distracted driving

diversion program to the House and Senate Committees on Transportation and on Judiciary.

* * * Effective Dates * * *

Sec. 52. EFFECTIVE DATES

(a) Notwithstanding 1 V.S.A. § 214, this section and Sec. 28 (certificate of title exemptions; 23 V.S.A. § 2012) shall take effect retroactively on January 1, 2024.

(b) Secs. 14 and 15 (tinted windows; 23 V.S.A. § 1125) shall take effect on July 1, 2026.

(c) Sec. 35 (records; disclosures; custodian; 23 V.S.A. § 466) shall take effect on July 1, 2025.

(d) Secs. 36–41 (DMV credentials and number plates; veteran credentials) shall take effect on passage.

(e) All other sections shall take effect on July 1, 2024.

ANDREW J. PERCHLIK

THOMAS I. CHITTENDEN

RUSSELL H. INGALLS

Committee on the part of the Senate

SARA E COFFEY

CHARLES "BUTCH" H. SHAW

LEONORA DODGE

Committee on the part of the House

NOTICE CALENDAR

Second Reading

Favorable

H. 885.

An act relating to approval of an amendment to the charter of the Town of Berlin.

Reported favorably by Senator Watson for the Committee on Government Operations.

The Committee on Government Operations recommends that the bill ought to pass in concurrence.

(Committee vote: 6-0-0)

(No House amendments)

Reported favorably by Senator Cummings for the Committee on Finance.

The Committee on Finance recommends that the bill ought to pass in concurrence.

(Committee vote: 5-0-2)

Favorable with Proposal of Amendment

H. 622.

An act relating to emergency medical services.

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

The Committee recommends that the Senate propose to the House to amend the bill as follows:

In Sec. 3, 33 V.S.A. § 1901m, subsection (b), following “equal to the,” by striking out “Medicare basic life support rate” and inserting in lieu thereof applicable Medicare rate

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 22, 2024, pages 763-772)

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

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 6, EMS Advisory Committee statewide EMS system design, as follows:

First: In subsection (b), following “statewide EMS system”, by inserting before the comma that aligns with the purpose expressed in 18 V.S.A. § 901, optimizes patient care, and incorporates nationally recognized best practices

Second: By designating the existing subsection (c) as subdivision (c)(1) and by adding a subdivision (c)(2) to read as follows:

(2) The EMS Advisory Committee and the Department of Health shall coordinate with the Public Safety Communications Task Force and the County and Regional Governance Study Committee to ensure appropriate coordination and alignment of the groups' recommendations and system designs.

(Committee vote: 6-0-0)

Reported favorably by Senator Chittenden for the Committee on Finance.

The Committee recommends that the bill ought to pass in concurrence with proposals of amendment as recommended by the Committees on Health and Welfare and Government Operations.

(Committee vote: 7-0-0)

Reported favorably by Senator Lyons for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposals of amendment as recommended by the Committees on Health and Welfare and Government Operations.

(Committee vote: 5-0-2)

H. 876.

An act relating to miscellaneous amendments to the corrections laws.

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

The Committee recommends 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. 28 V.S.A. § 801 is amended to read:

§ 801. MEDICAL CARE OF INMATES

(a) Provision of medical care. The Department shall provide health care for inmates in accordance with the prevailing medical standards. When the provision of such care requires that the inmate be taken outside the boundaries of the correctional facility wherein the inmate is confined, the Department shall provide reasonable safeguards, when deemed necessary, for the custody of the inmate while ~~he or she~~ the inmate is confined at a medical facility.

(b) Screenings and assessments.

(1) Upon admission to a correctional facility for a minimum of 14 consecutive days, each inmate shall be given a physical assessment unless extenuating circumstances exist.

(2) Within 24 hours after admission to a correctional facility, each inmate shall be screened for substance use disorders as part of the initial and ongoing substance use screening and assessment process. This process includes screening and assessment for opioid use disorders.

(c) Emergency care. When there is reason to believe an inmate is in need of medical care, the officers and employees shall render emergency first aid and immediately secure additional medical care for the inmate in accordance with the standards set forth in subsection (a) of this section. A correctional facility shall have on staff at all times at least one person trained in emergency first aid.

(d) Policies. The Department shall establish and maintain policies for the delivery of health care in accordance with the standards in subsection (a) of this section.

(e) Pre-existing prescriptions; definitions for subchapter.

(1) Except as otherwise provided in this subsection, an inmate who is admitted to a correctional facility while under the medical care of a licensed physician, a licensed physician assistant, or a licensed advanced practice registered nurse and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system, including buprenorphine, methadone, or other medication prescribed in the course of ~~medication-assisted treatment~~ medication for opioid use disorder, shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, or a licensed advanced practice registered nurse.

(2) Notwithstanding subdivision (1) of this subsection, the Department may defer provision of a validly prescribed medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, or an advanced practice registered nurse, it is not medically necessary to continue the medication at that time.

(3) The licensed practitioner who makes the clinical judgment to discontinue a medication shall cause the reason for the discontinuance to be entered into the inmate's medical record, specifically stating the reason for the

discontinuance. The inmate shall be provided, both orally and in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have ~~his or her~~ the inmate's community-based prescriber notified of the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(4) It is not the intent of the General Assembly that this subsection shall create a new or additional private right of action.

(5) As used in this subchapter:

(A) "Medically necessary" describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual's diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.

(B) ~~"Medication-assisted treatment"~~ shall have "Medication for opioid use disorder" has the same meaning as in 18 V.S.A. § 4750.

(f) Third-party medical provider contracts. Any contract between the Department and a provider of physical or mental health services shall establish policies and procedures for continuation and provision of medication at the time of admission and thereafter, as determined by an appropriate evaluation, which will protect the ~~mental and physical~~ health of inmates.

(g) Prescription medication; reentry planning.

(1) If an offender takes a prescribed medication while incarcerated and that prescribed medication continues to be both available at the facility and clinically appropriate for the offender at the time of discharge from the correctional facility, the Department or its contractor shall provide the offender, at the time of release, with not less than a 28-day supply of the prescribed medication, if possible, to ensure that the inmate may continue taking the medication as prescribed until the offender is able to fill a new prescription for the medication in the community. The Department or its contractor shall also provide the offender exiting the facility with a valid prescription to continue the medication after any supply provided during release from the facility is depleted.

(2) The Department or its contractor shall identify any necessary licensed health care provider or substance use disorder treatment program, or

both, and schedule an intake appointment for the offender with the provider or program to ensure that the offender can continue care in the community as part of the offender's reentry plan. The Department or its contractor may employ or contract with a case worker or health navigator to assist with scheduling any health care appointments in the community.

Sec. 2. 28 V.S.A. § 801b is amended to read:

§ 801b. ~~MEDICATION-ASSISTED-TREATMENT~~ MEDICATION FOR OPIOID USE DISORDER IN CORRECTIONAL FACILITIES

(a) If an inmate receiving ~~medication-assisted-treatment~~ medication for opioid use disorder prior to entering the correctional facility continues to receive medication prescribed in the course of ~~medication-assisted-treatment~~ medication for opioid use disorder pursuant to section 801 of this title, the inmate shall be authorized to receive that medication for as long as medically necessary.

(b)(1) If at any time an inmate screens positive as having an opioid use disorder, the inmate may elect to commence buprenorphine-specific ~~medication-assisted-treatment~~ medication for opioid use disorder if it is deemed medically necessary by a provider authorized to prescribe buprenorphine. The inmate shall be authorized to receive the medication as soon as possible and for as long as medically necessary.

(2) Nothing in this subsection shall prevent an inmate who commences ~~medication-assisted-treatment~~ medication for opioid use disorder while in a correctional facility from transferring from buprenorphine to methadone if:

(A) methadone is deemed medically necessary by a provider authorized to prescribe methadone; and

(B) the inmate elects to commence methadone as recommended by a provider authorized to prescribe methadone.

(c) The licensed practitioner who makes the clinical judgment to discontinue a medication shall cause the reason for the discontinuance to be entered into the inmate's medical record, specifically stating the reason for the discontinuance. The inmate shall be provided, both orally and in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have ~~his or her~~ the inmate's community-based prescriber notified of the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(d)(1) As part of reentry planning, the Department shall commence ~~medication-assisted treatment~~ medication for opioid use disorder prior to an ~~inmate's~~ offender's release if:

(A) the ~~inmate~~ offender screens positive for an opioid use disorder;

(B) ~~medication-assisted treatment~~ medication for opioid use disorder is medically necessary; and

(C) the ~~inmate~~ offender elects to commence ~~medication-assisted treatment~~ medication for opioid use disorder.

(2) If ~~medication-assisted treatment~~ medication for opioid use disorder is indicated and despite best efforts induction is not possible prior to release, the Department shall ensure comprehensive care coordination with a community-based provider.

(3) If an offender takes a prescribed medication as part of medication for opioid use disorder while incarcerated and that prescription medication is both available at the facility and clinically appropriate for the offender at the time of discharge from the correctional facility, the Department or its contractor shall provide the offender, at the time of release, with a legally permissible supply to ensure that the offender may continue taking the medication as prescribed prior to obtaining the prescription medication in the community.

(e)(1) Counseling or behavioral therapies shall be provided in conjunction with the use of medication for medication-assisted treatment as provided for in the Department of Health's "~~Rule Governing Medication-Assisted Therapy for Opioid Dependence~~ Medication for Opioid Use Disorder for: (1) Office-Based Opioid Treatment Providers Prescribing Buprenorphine; and (2) Opioid Treatment Providers."

(2) As part of reentry planning, the Department shall inform and offer care coordination to an offender to expedite access to counseling and behavioral therapies within the community.

(3) As part of reentry planning, the Department or its contractor shall identify any necessary licensed health care provider or an opioid use disorder treatment program, or both, and schedule an intake appointment for the offender with the providers or treatment program, or both, to ensure that the offender can continue treatment in the community as part of the offender's reentry plan. The Department or its contractor may employ or contract with a case worker or health navigator to assist with scheduling any health care appointments in the community.

Sec. 3. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;
EARNED TIME EXPANSION; PAROLEES; EDUCATIONAL
CREDITS, REVIEW

(a) The Joint Legislative Justice Oversight Committee shall review whether the Department of Corrections' current earned time program should be expanded to include parolees, as well as permitting earned time for educational credits for both offenders and parolees.

(b) The review of the Department's earned time program shall also include an examination of the current operation and effectiveness of the Department's victim notification system and whether it has the capabilities to handle an expansion of the earned time program. The Committee shall solicit testimony from the Department; the Center for Crime Victim Services; victims and survivors of crimes, including those who serve on the advisory council for the Center for Crime Victim Services; and the Department of State's Attorneys and Sheriffs.

(c) On or before November 15, 2024, the Committee shall submit any recommendations from the study pursuant to this section to the Senate Committee on Judiciary and the House Committee on Corrections and Institutions.

Sec. 4. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

* * *

(m)(1) An individual sentenced to serve a period of imprisonment of six months or more committed to the custody of the Commissioner of Corrections who is eligible for a nondriver identification card under the requirements of this section shall, upon proper application and in advance of release from a correctional facility, be provided with a nondriver identification card for a fee of \$0.00.

(2) As part of reentry planning, the Department of Corrections shall inquire with the individual to be released about the individual's desire to obtain a nondriver identification card or any driving credential, if eligible, and inform the individual about the differences, including any costs to the individual.

(3) If the individual desires a nondriver identification card, the Department of Corrections shall coordinate with the Department of Motor Vehicles to provide an identification card for the individual at the time of release.

Sec. 5. FAMILY VISITATION; STUDY COMMITTEE; REPORT

(a) Creation. There is created the Family Friendly Visitation Study Committee to examine how the Department of Corrections can facilitate greater family friendly visitation methods for all inmates who identify as parents, guardians, and parents with visitation rights.

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

(1) the Commissioner of Corrections or designee;

(2) the Child, Family, and Youth Advocate or designee;

(3) a representative from Lund's Kids-A-Part program;

(4) the Commissioner for Children and Families or designee; and

(5) a representative from the Vermont Network Against Domestic and Sexual Violence.

(c) Powers and duties. The Study Committee shall study methods and approaches to better family friendly visitation for inmates who identify as parents, guardians, and parents with visitation rights, including the following issues:

(1) establishing a Department policy that facilitates family friendly visitation to inmates who identify as parents, guardians, and parents with visitation rights;

(2) assessing correctional facility capacity and resources needed to facilitate greater family friendly visitation to inmates who identify as parents, guardians, and parents with visitation rights;

(3) evaluating the possibility of locating inmates at correctional facilities closer to family;

(4) assessing how inmate discipline at a correctional facility affects family visitation;

(5) examining the current Kids-A-Part visitation program and determining steps to achieve parity with the objectives pursuant to subsection (a) of this section;

(6) exploring more family friendly visiting days and hours; and

(7) consulting with other stakeholders on relevant issues as necessary.

(d) Assistance. The Study Committee shall have the administrative, technical, and legal assistance of the Department of Corrections.

(e) Report. On or before January 15, 2025, the Study Committee shall submit a written report to the House Committee on Corrections and Institutions and the Senate Committee on Judiciary with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Commissioner of Corrections or designee shall call the first meeting of the Study Committee to occur on or before August 1, 2024.

(2) The Study Committee shall meet not more than six times.

(3) The Commissioner of Corrections or designee shall serve as the Chair of the Study Committee.

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

(5) The Study Committee shall cease to exist on February 15, 2025.

(g) Compensation and reimbursement. Members of the Study 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 compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than six meetings per year.

Sec. 6. CORRECTIONAL FACILITIES; INMATE POPULATION REDUCTION; REPORT

(a) Findings and intent.

(1) The General Assembly finds that the population of inmates in Vermont has risen from approximately 300 detainees per day in 2020 to approximately 500 detainees per day in 2024 while the sentenced population has remained relatively stable during the same time period.

(2) It is the intent of the General Assembly that, by 2034, the practice of Vermont inmates being housed in privately operated, for-profit, or out-of-state correctional facilities shall be prohibited so that corporations are not enriched for depriving the liberty of persons sentenced to imprisonment. It is the further intent of the General Assembly that such a prohibition does not affect inmates who are incarcerated pursuant to an interstate compact.

(b) Report. On or before November 15, 2025, the Judiciary, in consultation with the Department of Corrections, the Department of Buildings and General Services, the Department of State's Attorneys and Sheriffs, the Office of the Defender General, and the Law Enforcement Advisory Board, shall submit a written report to the House Committee on Corrections and Institutions and the Senate Committee on Judiciary detailing methods to

reduce the number of offenders and detainees in Vermont correctional facilities. The report shall include:

(1) identifying new laws or amendments to current laws to help reduce the number of individuals who enter the criminal justice system;

(2) methods to divert individuals away from the criminal justice system once involved;

(3) initiatives to keep individuals involved in the criminal justice system out of Vermont's correctional facilities; and

(4) an analysis of the financial savings attributed to implementing subdivisions (1)–(3) of this subsection and how any savings can be reinvested.

(c) Status update. On or before December 1, 2024, the Department of Corrections shall provide a status update of the report identified in subsection (b) of this section to the Joint Legislative Justice Oversight Committee in the form of a written outline, which shall include any legislative recommendations.

(d) Support. The stakeholders identified in subsection (b) of this section may contract with third parties to assist in the development of the report pursuant to this section.

Sec. 7. REENTRY SERVICES; NEW CORRECTIONAL FACILITIES; PROGRAMMING; RECOMMENDATIONS

On or before November 15, 2024, the Department of Corrections, in consultation with the Department of Buildings and General Services, shall submit recommendations to the Senate Committee on Judiciary and the House Committee on Corrections and Institutions detailing the following:

(1) an examination of the Department of Corrections' reentry and transitional services with the objective to transition and implement modern strategies and facilities to assist individuals involved with the criminal justice system to obtain housing, vocational and job opportunities, and other services to successfully reintegrate into society;

(2) the recommended size of a new women's correctional facility, including the scope and quality of programming and services housed in the facility and any therapeutic, educational, and other specialty design features necessary to support the programming and services offered in the facility; and

(3) whether it is advisable to construct a new men's correctional facility on the same campus as the women's correctional facility or at another location.

Sec. 8. EXECUTIVE BRANCH; POSITIONS; RECLASSIFICATION

To the extent funds are available and based on the operational needs of the Executive Branch as determined by the Secretary of Administration in accordance with 3 V.S.A. § 2224, in fiscal year 2025, seven permanent, classified manager positions that are currently vacant shall be transferred and properly classified as central operations specialist positions within the Department of Corrections. In addition to any other duties deemed appropriate by the Department, the central operations specialists shall assist in the Department's obligations to attend to individuals in its custody who are located or admitted at hospitals.

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee vote: 5-0-0)

(No House amendments)

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

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Judiciary, with further recommendation of proposal of amendment as follows:

By striking out Sec. 8, executive branch; positions; reclassification, in its entirety and inserting in lieu thereof the following:

Sec. 8. DEPARTMENT OF CORRECTIONS; PROBATION AND PAROLE OFFICERS; HOSPITAL COVERAGE; PLAN

(a) Intent. It is the intent of the General Assembly to afford relief to the probation and parole officers of the Department of Corrections who are providing emergency coverage, in addition to their own duties and responsibilities, to supervise individuals in the custody of the Department who are located or admitted at hospitals.

(b) Plan. On or before January 15, 2025, the Department of Corrections, in consultation with the Agency of Administration, shall present a plan to the Senate Committees on Appropriations and on Judiciary and the House Committee on Appropriations and on Corrections and Institutions to address the Department's staffing shortages related to hospital coverage and in accordance with subsection (a) of this section. The plan shall address:

(1) general staffing recommendations to relieve probation and parole officers from providing hospital coverage as outlined in this section;

(2) the number of staff required to provide adequate relief to probation and parole officers providing hospital coverage; and

(3) the costs associated with the Department's staffing recommendations and requirements.

(Committee vote: 5-0-2)

Amendments to proposal of amendment of the Committee on Judiciary to H. 876 to be offered by Senator Sears

Senator Sears moves to amend the proposal of amendment of the Committee on Judiciary as follows

First: In Sec. 6, correctional facilities; inmate population reduction; report, in subsection (b), in the first sentence, by striking out "the Department of Buildings and General Services," following "in consultation with the Department of Corrections,"

Second: In Sec. 7, reentry services; new correctional facilities; programming; recommendations, in subdivision (3), by striking out "correctional" following "men's" and inserting in lieu thereof reentry

House Proposals of Amendment

S. 55.

An act relating to authorizing public bodies to meet electronically under Vermont's Open Meeting Law

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that regardless of the form and format of a meeting, whether in-person, remote, or a hybrid fashion, that:

(1) meetings of public bodies be fully accessible to members of the public who would like to attend and participate, as well as to members of those public bodies who have been appointed or elected to serve their communities;

(2) subject to any exceptions in the Open Meeting Law, the deliberations and decisions of public bodies be transparent to members of the public; and

(3) the meetings of public bodies be conducted using standard rules and best practices for both meeting format and method of delivery.

Sec. 2. 1 V.S.A. § 310 is amended to read:

§ 310. DEFINITIONS

As used in this subchapter:

(1) “Advisory body” means a public body that does not have supervision, control, or jurisdiction over legislative, quasi-judicial, tax, or budgetary matters.

(2) “Business of the public body” means the public body’s governmental functions, including any matter over which the public body has supervision, control, jurisdiction, or advisory power.

~~(2)~~(3) “Deliberations” means weighing, examining, and discussing the reasons for and against an act or decision, but expressly excludes the taking of evidence and the arguments of parties.

(4) “Hybrid meeting” means a meeting that includes both a designated physical meeting location and a designated electronic meeting platform.

~~(3)~~(5)(A) “Meeting” means a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action.

* * *

~~(4)~~(6) “Public body” means any board, council, or commission of the State or one or more of its political subdivisions, any board, council, or commission of any agency, authority, or instrumentality of the State or one or more of its political subdivisions, or any committee or subcommittee of any of the foregoing boards, councils, or commissions, except that “public body” does not include councils or similar groups established by the Governor for the sole purpose of advising the Governor with respect to policy.

~~(5)~~(7) “Publicly announced” means that notice is given to an editor, publisher, or news director of a newspaper or radio station serving the area of the State in which the public body has jurisdiction, and to any person who has requested under subdivision 312(c)(5) of this title to be notified of special meetings.

~~(6)~~(8) “Quasi-judicial proceeding” means a proceeding which that is:

* * *

(9) “Undue hardship” means an action required to achieve compliance would require significant difficulty or expense in light of factors including the overall size of the entity, sufficient personnel and staffing availability, the entity’s budget, and the costs associated with compliance.

Sec. 3. 1 V.S.A. § 312 is amended to read:

§ 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES

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

(2) Participation in meetings through electronic or other means.

* * *

(D) If a quorum or more of the members of a public body attend a meeting without being physically present at a designated meeting location, the agenda required under subsection (d) of this section shall designate at least one physical location where a member of the public can attend and participate in the meeting. At least one member of the public body, or at least one staff or designee of the public body, shall be physically present at each designated meeting location. The requirements of this subdivision (D) shall not apply to advisory bodies.

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

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

(B) electronically record all meetings; and

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

(4) State and local advisory bodies; electronic meetings without a physical meeting location. A quorum or more of the members of an advisory body may attend any meeting of the advisory body by electronic or other means without being physically present at or staffing a designated meeting location. A quorum or more of the members of any public body may attend an

emergency meeting of the body by electronic or other means without being physically present at or staffing a designated meeting location.

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

(6) Local nonadvisory public bodies; meeting recordings.

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

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

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

* * *

(j) Request for access.

(1) A resident of the geographic area in which the public body has jurisdiction, a member of a public body, or a member of the press may request that a public body designate a physical meeting location or provide electronic or telephonic access to a regular meeting, but not to a series of regular meetings, special meetings, emergency meetings, or field visits.

(2) The request shall be made in writing, as specified by the public body, not less than two business days before the date of the meeting. The public body shall not require the requestor to provide a basis for the request.

(3) The public body shall grant the request unless:

(A) there is an all-hazards event as defined in 20 V.S.A. § 2 or a state of emergency declared pursuant to 20 V.S.A. §§ 9 and 11;

(B) there is a local incident as defined in section 312a of this subchapter; or

(C) compliance would impose an undue hardship on the municipality.

(4) A public body shall have the burden of proving that compliance under subdivision (3) of this subsection would impose an undue hardship on the public body.

Sec. 4. COMMUNICATIONS UNION DISTRICTS; STATE
NONADVISORY PUBLIC BODIES; DESIGNATED PHYSICAL
MEETING LOCATION EXCEPTION

Until January 1, 2025, notwithstanding the provisions of 1 V.S.A. § 312(a)(3), communications union districts and State nonadvisory public bodies shall not be required to designate a physical meeting location for regular and special meetings or hold regular and special meetings in a hybrid fashion.

Sec. 5. 1 V.S.A. § 312(k) is added to read:

(k) Training.

(1) Annually, the following officers shall participate in a professional training that addresses the procedures and requirements of this subchapter:

(A) for municipalities and political subdivisions, the chair of the legislative body, town manager, and mayor; and

(B) for the State, the chair of any public body that is not an advisory body.

(2) The Secretary of State shall develop the training required by subdivision (1) of this subsection and make the training available to municipalities and political subdivisions and public bodies. The training may be in person, online, and synchronous or asynchronous.

Sec. 6. 1 V.S.A. § 312a is amended to read:

§ 312a. MEETINGS OF PUBLIC BODIES; STATE OF EMERGENCY

(a) As used in this section:

(1) “Affected public body” means a public body:

(A) whose regular meeting location is located in an area affected by a hazard or local incident; and

(B) that cannot meet in a designated physical meeting location due to a declared state of emergency pursuant to 20 V.S.A. chapter 1 or local incident.

(2) “Directly impedes” means interferes or obstructs in a manner that makes it infeasible for a public body to meet either at a designated physical location or through electronic means.

(3) “Hazard” means an “all-hazards” as defined in 20 V.S.A. § 2(1).

(4) “Local incident” means a weather event, loss of power or telecommunication services, public health emergency, public safety threat, received threat that a member of the public body believes may place the member or another person in reasonable apprehension of death or serious bodily injury, or other event that directly impedes the ability of a public body to hold a meeting electronically or in a designated physical location.

(b) Notwithstanding subdivisions 312(a)(2)(D), (a)(3), and (c)(2) of this title, during a local incident or declared state of emergency under 20 V.S.A. chapter 1:

(1) A quorum or more of an affected public body may attend a regular, special, or emergency meeting by electronic or other means without designating a physical meeting location where the public may attend.

(2) The members and staff of an affected public body shall not be required to be physically present at a designated meeting location.

(3) An affected public body of a municipality may post any meeting agenda or notice of a special meeting in two publicly accessible designated electronic locations in lieu of the two designated public places in the municipality, or in a combination of a designated electronic location and a designated public place.

(c) Before a public body may meet under the authority provided in this section for meetings held during a local incident, the highest ranking elected or appointed officer of the public body shall make a formal written finding and announcement of the local incident, including the basis for the finding.

(d) Notwithstanding subdivision 312(a)(3) of this title, during a local incident that impedes an affected public body’s ability to hold a meeting by electronic means, the affected public body may hold a meeting exclusively at a designated physical meeting location.

(e) When an affected public body meets electronically under subsection (b) of this section, the affected public body shall:

(1) use technology that permits the attendance and participation of the public through electronic or other means;

(2) allow the public to access the meeting by telephone; ~~and~~

(3) post information that enables the public to directly access and participate in meetings electronically and shall include this information in the published agenda for each meeting; and

(4) if applicable, publicly announce and post a notice that the meeting will not be held in a hybrid fashion and will be held either in a designated physical meeting location or through electronic means.

~~(d)~~(f) Unless unusual circumstances make it impossible for them to do so, the legislative body of each municipality and each school board shall record any meetings held pursuant to this section.

~~(e)~~(g) An affected public body of a municipality shall continue to post notices and agendas in or near the municipal clerk's office pursuant to subdivision 312(c)(2) of this title and shall provide a copy of each notice or agenda to the newspapers of general circulation for the municipality.

Sec. 7. 1 V.S.A. § 314 is amended to read:

§ 314. PENALTY AND ENFORCEMENT

* * *

(e) A municipality shall post on its website, if it maintains one:

(1) an explanation of the procedures for submitting notice of an Open Meeting Law violation to the public body or the Attorney General; and

(2) a copy of the text of this section.

Sec. 8. 17 V.S.A. § 2640 is amended to read:

§ 2640. ANNUAL MEETINGS

* * *

(b)(1) When a town so votes, it may thereafter start its annual meeting on any of the three days immediately preceding the first Tuesday in March at such time as it elects and may transact at that time any business not involving voting by Australian ballot or voting required by law to be by ballot and to be held on the first Tuesday in March. A meeting so started shall be adjourned until the first Tuesday in March.

(2) An informational meeting held in the three days preceding the first Tuesday in March pursuant to this subsection shall be video recorded and a copy of the recording shall be posted in a designated electronic location within 24 hours until the results of the annual meeting have been certified.

* * *

Sec. 9. 17 V.S.A. § 2680 is amended to read:

§ 2680. AUSTRALIAN BALLOT SYSTEM; GENERAL

* * *

(h) Hearing.

* * *

(2)(A) The hearing shall be held within the ~~40~~ 30 days preceding the meeting at which the Australian ballot system is to be used. The legislative body shall be responsible for the administration of this hearing, including the preparation of minutes.

* * *

(3) A hearing held pursuant to this subsection shall be video recorded and a copy of the recording shall be posted in a designated electronic location until the results of the meeting have been certified.

Sec. 10. WORKING GROUP ON PARTICIPATION AND ACCESSIBILITY OF MUNICIPAL PUBLIC MEETINGS AND ELECTIONS; REPORT

(a) Creation. There is created the Working Group on Participation and Accessibility of Municipal Public Meetings and Elections to study and make recommendations to:

(1) improve the accessibility of and participation in meetings of local public bodies, annual municipal meetings, and local elections; and

(2) increase transparency, accountability, and trust in government.

(b) Membership. The Working Group shall be composed of the following members:

(1) two designees of the Vermont League of Cities and Towns, who shall represent municipalities of differing populations and geographically diverse areas of the State;

(2) two designees of the Vermont Municipal Clerks' and Treasurers' Association, who shall represent municipalities of differing populations and geographically diverse areas of the State;

(3) one designee of the Vermont School Boards Association;

(4) one designee of Disability Rights Vermont;

(5) one designee of the Vermont Access Network;

(6) one member with expertise in remote and hybrid voting and meeting technology, appointed by the Secretary of State;

(7) the Chair of the Human Rights Commission or designee; and

(8) the Secretary of State or designee, who shall be Chair.

(c) Powers and duties. The Working Group shall:

(1) recommend best practices for:

(A) running effective and inclusive meetings and maximizing participation and accessibility in electronic, hybrid, and in-person annual meetings and meetings of public bodies;

(B) the use of universal design for annual meetings and meetings of public bodies;

(C) training public bodies for compliance with the Open Meeting Law; and

(D) recording meetings of municipal public bodies and the means and timeline for posting those recordings for public access.

(2) report on the findings of the Civic Health Index study by the Secretary of State and how to reduce barriers to participation in public service;

(3) identify the technical assistance, equipment, and training necessary for municipalities to run effective and inclusive remote or hybrid public meetings;

(4) produce a guide for accessibility for polling and public meeting locations;

(5) study the feasibility of using electronic platforms to support remote attendance and voting at annual meetings;

(6) analyze voter turnout and the voting methods currently used throughout the State;

(7) investigate whether increased use of resources for participants such as child care, hearing devices, translators, transportation, food, and hybrid meetings could increase participation in local public meetings; and

(8) study other topics as determined by the group that could improve participation and access to local public meetings.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Office of the Secretary of State. The Office of the Secretary of State may hire a consultant to provide assistance to the Working Group.

(e) Consultation. The Working Group shall consult with the Vermont Press Association, communications union districts, and other relevant stakeholders.

(f) Report. On or before November 1, 2025, the Working Group shall submit a written report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations with its findings and any recommendations for legislative action.

(g) Meetings.

(1) The Secretary of State shall call the first meeting of the Working Group to occur on or before September 1, 2024.

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

(3) The Working Group shall cease to exist on the date that it submits the report required by this section.

(h) Compensation and reimbursement. The members of the Working Group shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 10 meetings. These payments shall be made from monies appropriated to the Office of the Secretary of State.

Sec. 11. EFFECTIVE DATES

This act shall take effect on July 1, 2024, except that Sec. 5 (1 V.S.A. § 312(k)) shall take effect on January 1, 2025.

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

An act relating to updating Vermont's Open Meeting Law

S. 220.

An act relating to Vermont's public libraries

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Library Policies; Selection and Retention of Library Materials * * *

Sec. 1. 22 V.S.A. § 67 is amended to read:

§ 67. PUBLIC LIBRARIES; STATEMENT OF POLICY; USE OF FACILITIES AND RESOURCES

* * *

(c) To ensure that Vermont libraries protect and promote the principles of free speech, inquiry, discovery, and public accommodation, it is necessary that the trustees, managers, or directors of free public libraries adopt policies that

comply with the First Amendment to the U.S. Constitution and State and federal civil rights and antidiscrimination laws.

Sec. 2. 22 V.S.A. § 69 is added to read:

§ 69. PUBLIC LIBRARIES; SELECTION AND RECONSIDERATION OF LIBRARY MATERIALS

A public library shall adopt a library material selection policy and procedures for the reconsideration and retention of library materials that complies with the First Amendment to the U.S. Constitution, the Civil Rights Act of 1964, State laws prohibiting discrimination in places of public accommodation, and that reflect Vermont's diverse people and history, including diversity of race, ethnicity, sex, gender identity, sexual orientation, disability status, religion, and political beliefs. A public library may adopt as its policy a model policy adopted by the Department of Libraries pursuant to section 606 of this title.

* * * Confidentiality of Library Records; Minors * * *

Sec. 3. 22 V.S.A. § 172 is amended to read:

§ 172. LIBRARY RECORD CONFIDENTIALITY; EXEMPTIONS

* * *

(b) Unless authorized by other provisions of law, the library's officers, employees, and volunteers shall not disclose the records except:

* * *

(4) to custodial parents or guardians of patrons under ~~age 16~~ 12 years of age; or

* * *

* * * Public Safety * * *

Sec. 4. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

* * *

(d) A person who violates subsection (a) of this section by making a threat that places any person in reasonable apprehension that death, serious bodily injury, or sexual assault will occur at a public or ~~private~~ independent school; postsecondary education institution; public library; place of worship; polling place during election activities; the Vermont State House; or any federal, State, or municipal building shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

* * *

(h) As used in this section:

* * *

(12) "Public library" means a public library as defined in 22 V.S.A. § 101.

* * *

* * * Library Governance * * *

Sec. 5. 22 V.S.A. § 105 is amended to read:

§ 105. GENERAL POWERS

(a) The trustees, managers, or directors shall:

(1) elect the officers of the corporation from their number and have the control and management of the affairs, finances, and property of the corporation;

(2) adopt bylaws and policies governing the operation of the library;

(3) establish a library budget;

(4) hold regular meetings; and

(5) ensure compliance with the terms of any funding, grants, or bequests.

(b) The Trustees, managers, or directors may:

(1) accept donations and, in their discretion, hold the donations in the form in which they are given for the purposes of science, literature, and art germane to the objects and purposes of the corporation. ~~They may;~~ and

(2) in their discretion, receive by loan books, manuscripts, works of art, and other library materials and hold or circulate them under the conditions specified by the owners.

Sec. 6. 22 V.S.A. § 143 is amended to read:

§ 143. TRUSTEES

(a) Unless a municipality ~~which~~ that has established or shall establish a public library votes at its annual meeting to elect a board of trustees, the governing body of the municipality shall appoint the trustees. The appointment or election of the trustees shall continue in effect until changed at an annual meeting of the municipality. When trustees are first chosen, they shall be elected or appointed for staggered terms.

(b) The board shall consist of not less fewer than five trustees who shall have full power to:

(1) manage the public library, make and any property that shall come into the hands of the municipality by gift, purchase, devise, or bequest for the use and benefit of the library;

(2) adopt bylaws, and policies governing the operation of the library;

(3) elect officers, establish a library policy and receive, control and manage property which shall come into the hands of the municipality by gift, purchase, devise or bequest for the use and benefit of the library;

(4) establish a library budget for consideration by the legislative body of the municipality for inclusion in the municipality's budget;

(5) hold regular meetings; and

(6) ensure compliance with the terms of any funding, grants, or bequests.

(c) The board may appoint a director for the efficient administration and conduct of the library. A library director shall be under the supervision and control of the library board of trustees, unless the employee relationship is otherwise specified in the municipality's charter or by written agreement between the legislative body of the municipality and the trustees.

~~(b) When trustees are first chosen, they shall be elected or appointed for staggered terms.~~

* * * Department of Libraries * * *

Sec. 7. 22 V.S.A. § 606 is amended to read:

§ 606. OTHER DUTIES AND FUNCTIONS

The Department, in addition to the functions specified in section 605 of this title:

* * *

(5) May Shall provide a continuing education program for a Certificate in Public Librarianship. The Department shall conduct seminars, workshops, and other programs to increase the professional competence of librarians in the State.

* * *

(8) ~~Shall be the primary access point for State information, and provide advice on State information technology policy.~~

(9) May develop and adopt model policies for free public libraries concerning displays, meeting room use, patron behavior, internet use, library materials selection, and other relevant topics, as well as procedures for the reconsideration and retention of library materials, to ensure compliance with the First Amendment to the U.S. Constitution, the Civil Rights Act of 1964, and Vermont laws prohibiting discrimination in places of public accommodation.

(10) Shall adopt a material selection policy and procedures for reconsideration and retention that reflect Vermont's diverse people and history, including diversity of race, ethnicity, sex, gender identity, sexual orientation, disability status, religion, and political beliefs.

(11) May develop best practices and guidelines for public libraries and library service levels.

* * * School Library Material Selection * * *

Sec. 7a. 16 V.S.A. § 1624 is added to read:

§ 1624. SCHOOL LIBRARY MATERIAL SELECTION POLICY

(a) Each school board and each approved independent school shall develop, adopt, ensure the enforcement of, and make available in the manner described under subdivision 563(1) of this title a library material selection policy and procedures for the reconsideration and retention of materials. The policy and procedures shall affirm the importance of intellectual freedom and be guided by the First Amendment to the U.S. Constitution, the Civil Rights Act of 1964, Vermont laws prohibiting discrimination in places of public accommodation, the American Library Association's Freedom to Read Statement, Vermont's Freedom to Read Statement, and reflect Vermont's diverse people and history, including diversity of race, ethnicity, sex, gender identity, sexual orientation, disability status, religion, and political beliefs.

(b) In order to ensure a student's First Amendment rights are protected and all students' identities are affirmed and dignity respected, the policy and procedures required under subsection (a) of this section shall prohibit the removal of school library materials for the following reasons:

(1) partisan approval or disapproval;

(2) the author's race, nationality, gender identity, sexual orientation, political views, or religious views;

(3) school board members' or members of the public's discomfort, personal morality, political views, or religious views;

(4) the author’s point of view concerning the problems and issues of our time, whether international, national, or local;

(5) the race, nationality, gender identity, sexual orientation, political views, or religious views of the protagonist or other characters; or

(6) content related to sexual health that addresses physical, mental, emotional, or social dimensions of human sexuality, including puberty, sex, and relationships.

(c) The policy and procedures required under subsection (a) of this section shall ensure that school library staff are responsible for curating and developing collections that provide students with access to a wide array of materials that are relevant to students’ research, independent reading interests, and educational needs, as well as ensuring such materials are tailored to the cognitive and emotional levels of the children served by the school.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) Secs. 2 (22 V.S.A. § 69; public libraries; selection and reconsideration of library materials) and 7a (16 V.S.A. § 1624; school library material selection policy) shall take effect on July 1, 2025.

(b) Sec. 7 (22 V.S.A. § 606; Dept. of Libraries; other duties and functions) shall take effect on January 1, 2025.

(c) This section and all other sections of this act shall take effect on July 1, 2024.

S. 253.

An act relating to building energy codes

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 2, energy code compliance; working group, by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d) Assistance. The Working Group shall have the administrative and technical assistance of the Department of Public Service. The Working Group shall have the legal assistance of the Department of Public Service as to matters of procedure, the Working Group’s powers and duties, existing State programs, existing legal requirements or obligations, and the drafting of proposed legislation. The Working Group may hire a third-party consultant to assist and staff the Working Group, which may be funded by monies appropriated by the General Assembly or any grant funding received.

Second: In Sec. 2, energy code compliance; working group, by striking out subsection (e) in its entirety and inserting in lieu thereof the a new subsection (e) to read as follows:

(e) Report. On or before November 15, 2024 and November 15, 2025, the Working Group shall submit a written report to the Senate Committee on Natural Resources and Energy and the House Committee on Environment and Energy with its findings and recommendations for legislative action.

Third: In Sec. 2, energy code compliance; working group, in subdivision (f)(4), by striking out “February 15, 2030” and inserting in lieu thereof “July 1, 2026”

Fourth: By striking out Sec. 5, residential building contractor registry; website updates, in its entirety and inserting in lieu thereof the a new Sec. 5 to read as follows:

Sec. 5. RESIDENTIAL BUILDING CONTRACTOR REGISTRY;
WEBSITE UPDATES

(a) As part of its application to register with the residential building contractor registry administered by the Vermont Secretary of State, the Office of Professional Regulation shall ask a registrant to provide the following data:

(1) the geographic areas the registrant serves; and

(2) the trade services the registrant offers from a list of trade services compiled by the Office.

(b) As part of its application to register with the residential building contractor registry administered by the Vermont Secretary of State, the Office of Professional Regulation shall require that a registrant acknowledge that compliance with 30 V.S.A. § 51 (residential building energy standards) and 30 V.S.A. § 53 (commercial building energy standards) is required.

(c) On or before January 1, 2025, the Office of Professional Regulation shall update the website for the residential building contractor registry administered by the Vermont Secretary of State to:

(1) regularize usage of the term “residential contractor,” or another term selected by the Office, across the website to replace usages of substantially similar terms, such as “builder,” “contractor,” or “residential building contractor”; and

(2) add a clear and conspicuous notice that a residential contractor is required by law to comply with State building energy standards.

Fifth: By striking out Sec. 6, residential building contractor contract templates, in its entirety and inserting in lieu thereof the a new Sec. 6 to read as follows:

Sec. 6. RESIDENTIAL BUILDING CONTRACTOR CONTRACT
TEMPLATES

The Office of Professional Regulation shall update any contract template the Office furnishes for residential building contracting to include a statement acknowledging that the project is required to comply with 30 V.S.A. § 51 (residential building energy standards).

House Proposals of Amendment to Senate Proposals of Amendment

H. 121.

An act relating to enhancing consumer privacy

The House concurs in the Senate proposal of amendment with further proposal of amendment thereto by striking out all after the enacting clause and inserting in lieu thereof the following:

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

CHAPTER 61A. VERMONT DATA PRIVACY ACT

§ 2415. DEFINITIONS

As used in this chapter:

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

(B) As used in subdivision (A) of this subdivision (1), “control” or “controlled” means:

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

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

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

(2) “Age estimation” means a process that estimates that a consumer is likely to be of a certain age, fall within an age range, or is over or under a certain age.

(A) Age estimation methods include:

(i) analysis of behavioral and environmental data the controller already collects about its consumers;

(ii) comparing the way a consumer interacts with a device or with consumers of the same age;

(iii) metrics derived from motion analysis; and

(iv) testing a consumer's capacity or knowledge.

(B) Age estimation does not require certainty, and if a controller estimates a consumer's age for the purpose of advertising or marketing, that estimation may also be used to comply with this chapter.

(3) "Age verification" means a system that relies on hard identifiers or verified sources of identification to confirm a consumer has reached a certain age, including government-issued identification or a credit card.

(4) "Authenticate" means to use reasonable means to determine that a request to exercise any of the rights afforded under subdivisions 2418(a)(1)–(5) of this title is being made by, or on behalf of, the consumer who is entitled to exercise the consumer rights with respect to the personal data at issue.

(5)(A) "Biometric data" means data generated from the technological processing of an individual's unique biological, physical, or physiological characteristics that is linked or reasonably linkable to an individual, including:

(i) iris or retina scans;

(ii) fingerprints;

(iii) facial or hand mapping, geometry, or templates;

(iv) vein patterns;

(v) voice prints; and

(vi) gait or personally identifying physical movement or patterns.

(B) "Biometric data" does not include:

(i) a digital or physical photograph;

(ii) an audio or video recording; or

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

(6) "Broker-dealer" has the same meaning as in 9 V.S.A. § 5102.

(7) "Business associate" has the same meaning as in HIPAA.

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

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

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

(C) “Consent” does not include:

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

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

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

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

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

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

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

(13) “Consumer reporting agency” has the same meaning as in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f);

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

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

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

(17) “Credit union” has the same meaning as in 8 V.S.A. § 30101.

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

(19) “Data broker” has the same meaning as in section 2430 of this title.

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

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

(A)(i) takes reasonable measures to ensure that the data cannot be used to re-identify an identified or identifiable individual or be associated with an individual or device that identifies or is linked or reasonably linkable to an individual or household;

(ii) for purposes of this subdivision (A), “reasonable measures” shall include the de-identification requirements set forth under 45 C.F.R. § 164.514 (other requirements relating to uses and disclosures of protected health information);

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

(C) contractually obligates any recipients of the data to satisfy the criteria set forth in subdivisions (A) and (B) of this subdivision (21).

(22) “Financial institution”:

(A) as used in subdivision 2417(a)(12) of this title, has the same meaning as in 15 U.S.C. § 6809; and

(B) as used in subdivision 2417(a)(14) of this title, has the same meaning as in 8 V.S.A. § 11101.

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

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

(A) precise geolocation data that is used for determining a consumer’s attempt to acquire or receive gender-affirming health care services;

(B) efforts to research or obtain gender-affirming health care services; and

(C) any gender-affirming health data that is derived from nonhealth information.

(25) “Genetic data” means any data, regardless of its format, that results from the analysis of a biological sample of an individual, or from another source enabling equivalent information to be obtained, and concerns genetic material, including deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphisms (SNPs), epigenetic markers, uninterpreted data that results from analysis of the biological sample or other source, and any information extrapolated, derived, or inferred therefrom.

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

(27) “Health care facility” has the same meaning as in 18 V.S.A. § 9432.

(28) “Heightened risk of harm to a minor” means processing the personal data of a minor in a manner that presents a reasonably foreseeable risk of:

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

(B) financial, physical, or reputational injury to a minor;

(C) unintended disclosure of the personal data of a minor; or

(D) any physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of a minor if the intrusion would be offensive to a reasonable person.

(29) “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and any regulations promulgated pursuant to the act, as may be amended.

(30) “Identified or identifiable individual” means an individual who can be readily identified, directly or indirectly, including by reference to an identifier such as a name, an identification number, specific geolocation data, or an online identifier.

(31) “Independent trust company” has the same meaning as in 8 V.S.A. § 2401.

(32) “Investment adviser” has the same meaning as in 9 V.S.A. § 5102.

(33) “Large data holder” means a person that during the preceding calendar year processed the personal data of not fewer than 100,000 consumers.

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

(35) “Nonpublic personal information” has the same meaning as in 15 U.S.C. § 6809.

(36)(A) “Online service, product, or feature” means any service, product, or feature that is provided online, except as provided in subdivision (B) of this subdivision (36).

(B) “Online service, product, or feature” does not include:

(i) telecommunications service, as that term is defined in the Communications Act of 1934, 47 U.S.C. § 153;

(ii) broadband internet access service, as that term is defined in 47 C.F.R. § 54.400 (universal service support); or

(iii) the delivery or use of a physical product.

(37) “Patient identifying information” has the same meaning as in 42 C.F.R. § 2.11 (confidentiality of substance use disorder patient records).

(38) “Patient safety work product” has the same meaning as in 42 C.F.R. § 3.20 (patient safety organizations and patient safety work product).

(39)(A) “Personal data” means any information, including derived data and unique identifiers, that is linked or reasonably linkable to an identified or identifiable individual or to a device that identifies, is linked to, or is

reasonably linkable to one or more identified or identifiable individuals in a household.

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

(40)(A) “Precise geolocation data” means information derived from technology that can precisely and accurately identify the specific location of a consumer within a radius of 1,850 feet.

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

(i) the content of communications;

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

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

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

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

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

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

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

(46)(A) “Publicly available information” means information that:

(i) is lawfully made available through federal, state, or local government records; or

(ii) a controller has a reasonable basis to believe that the consumer has lawfully made available to the general public through widely distributed media.

(B) “Publicly available information” does not include biometric data collected by a business about a consumer without the consumer’s knowledge.

(47) “Qualified service organization” has the same meaning as in 42 C.F.R. § 2.11 (confidentiality of substance use disorder patient records).

(48) “Reproductive or sexual health care” has the same meaning as “reproductive health care services” in 1 V.S.A. § 150(c)(1).

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

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

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

(B) As used in this subdivision (51), “commercial purpose” means to advance a person’s commercial or economic interests, such as by inducing another person to buy, rent, lease, join, subscribe to, provide, or exchange products, goods, property, information, or services, or enabling or effecting, directly or indirectly, a commercial transaction.

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

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

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

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

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

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

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

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

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

(52) "Sensitive data" means personal data that:

(A) reveals a consumer's government-issued identifier, such as a Social Security number, passport number, state identification card, or driver's license number, that is not required by law to be publicly displayed;

(B) reveals a consumer's racial or ethnic origin, national origin, citizenship or immigration status, religious or philosophical beliefs, or union membership;

(C) reveals a consumer's sexual orientation, sex life, sexuality, or status as transgender or nonbinary;

(D) reveals a consumer's status as a victim of a crime;

(E) is financial information, including a consumer's tax return and account number, financial account log-in, financial account, debit card number, or credit card number in combination with any required security or access code, password, or credentials allowing access to an account;

(F) is consumer health data;

(G) is personal data collected and analyzed concerning consumer health data or personal data that describes or reveals a past, present, or future mental or physical health condition, treatment, disability, or diagnosis, including pregnancy, to the extent the personal data is not used by the controller to identify a specific consumer's physical or mental health condition or diagnosis;

(H) is biometric or genetic data;

(I) is personal data collected from a known minor; or

(J) is precise geolocation data.

(53)(A) "Targeted advertising" means the targeting of an advertisement to a consumer based on the consumer's activity with one or more businesses, distinctly branded websites, applications, or services, other than the controller, distinctly branded website, application, or service with which the consumer is intentionally interacting.

(B) "Targeted advertising" does not include:

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

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

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

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

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

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

(56) “Victim services organization” means a nonprofit organization that is established to provide services to victims or witnesses of child abuse, domestic violence, human trafficking, sexual assault, violent felony, or stalking.

§ 2416. APPLICABILITY

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

(1) controlled or processed the personal data of not fewer than 25,000 consumers, excluding personal data controlled or processed solely for the purpose of completing a payment transaction; or

(2) controlled or processed the personal data of not fewer than 12,500 consumers and derived more than 25 percent of the person’s gross revenue from the sale of personal data.

(b) Sections 2420, 2424, and 2428 of this title and the provisions of this chapter concerning consumer health data and consumer health data controllers apply to a person that conducts business in this State or a person that produces products or services that are targeted to residents of this State.

§ 2417. EXEMPTIONS

(a) This chapter does not apply to:

(1) a federal, State, tribal, or local government entity in the ordinary course of its operation;

(2) protected health information that a covered entity or business associate processes in accordance with, or documents that a covered entity or business associate creates for the purpose of complying with HIPAA;

(3) information used only for public health activities and purposes described in 45 C.F.R. § 164.512 (disclosure of protected health information without authorization);

(4) information that identifies a consumer in connection with:

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

(B) research on human subjects undertaken in accordance with good clinical practice guidelines issued by the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use;

(C) activities that are subject to the protections provided in 21 C.F.R. Parts 50 (FDA clinical investigations protection of human subjects) and 56 (FDA clinical investigations institutional review boards); or

(D) research conducted in accordance with the requirements set forth in subdivisions (A) through (C) of this subdivision (a)(4) or otherwise in accordance with applicable law;

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

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

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

(8) information that originates from, or is intermingled so as to be indistinguishable from, or that is treated in the same manner as information described in subdivisions (2)–(7) of this subsection that a covered entity, business associate, or a qualified service organization program creates, collects, processes, uses, or maintains in the same manner as is required under the laws, regulations, and guidelines described in subdivisions (2)–(7) of this subsection;

(9) information processed or maintained solely in connection with, and for the purpose of, enabling:

(A) an individual's employment or application for employment;

(B) an individual's ownership of, or function as a director or officer of, a business entity;

(C) an individual's contractual relationship with a business entity;

(D) an individual's receipt of benefits from an employer, including benefits for the individual's dependents or beneficiaries; or

(E) notice of an emergency to persons that an individual specifies;

(10) any activity that involves collecting, maintaining, disclosing, selling, communicating, or using information for the purpose of evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living if done strictly in accordance with the provisions of the Fair Credit Reporting Act, 15 U.S.C. § 1681-1681x, as may be amended, by:

(A) a consumer reporting agency;

(B) a person who furnishes information to a consumer reporting agency under 15 U.S.C. § 1681s-2 (responsibilities of furnishers of information to consumer reporting agencies); or

(C) a person who uses a consumer report as provided in 15 U.S.C. § 1681b(a)(3) (permissible purposes of consumer reports);

(11) information collected, processed, sold, or disclosed under and in accordance with the following laws and regulations:

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

(B) the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and regulations adopted to implement that act;

(C) the Airline Deregulation Act, Pub. L. No. 95-504, only to the extent that an air carrier collects information related to prices, routes, or services, and only to the extent that the provisions of the Airline Deregulation Act preempt this chapter;

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

(E) federal policy under 21 U.S.C. § 830 (regulation of listed chemicals and certain machines);

(12) nonpublic personal information that is processed by a financial institution subject to the Gramm-Leach-Bliley Act, Pub. L. No. 106-102, and regulations adopted to implement that act;

(13) information that originates from, or is intermingled so as to be indistinguishable from, information described in subdivision (12) of this subsection and that a controller or processor collects, processes, uses, or maintains in the same manner as is required under the law and regulations specified in subdivision (12) of this subsection;

(14) a financial institution, credit union, independent trust company, broker-dealer, or investment adviser or a financial institution's, credit union's, independent trust company's, broker-dealer's, or investment adviser's affiliate or subsidiary that is only and directly engaged in financial activities, as described in 12 U.S.C. § 1843(k);

(15) a person regulated pursuant to 8 V.S.A. part 3 (chapters 101–165) other than a person that, alone or in combination with another person, establishes and maintains a self-insurance program and that does not otherwise engage in the business of entering into policies of insurance;

(16) a third-party administrator, as that term is defined in the Third Party Administrator Rule adopted pursuant to 18 V.S.A. § 9417;

(17) personal data of a victim or witness of child abuse, domestic violence, human trafficking, sexual assault, violent felony, or stalking that a victim services organization collects, processes, or maintains in the course of its operation;

(18) a nonprofit organization that is established to detect and prevent fraudulent acts in connection with insurance;

(19) information that is processed for purposes of compliance, enrollment or degree verification, or research services by a nonprofit organization that is established to provide enrollment data reporting services on behalf of postsecondary schools as that term is defined in 16 V.S.A. § 176; or

(20) noncommercial activity of:

(A) a publisher, editor, reporter, or other person who is connected with or employed by a newspaper, magazine, periodical, newsletter, pamphlet, report, or other publication in general circulation;

(B) a radio or television station that holds a license issued by the Federal Communications Commission;

(C) a nonprofit organization that provides programming to radio or television networks; or

(D) an entity that provides an information service, including a press association or wire service.

(b) Controllers, processors, and consumer health data controllers that comply with the verifiable parental consent requirements of COPPA shall be deemed compliant with any obligation to obtain parental consent pursuant to this chapter, including pursuant to section 2420 of this title.

§ 2418. CONSUMER PERSONAL DATA RIGHTS

(a) A consumer shall have the right to:

(1) confirm whether a controller is processing the consumer's personal data and, if a controller is processing the consumer's personal data, access the personal data;

(2) obtain from a controller a list of third parties to which the controller has disclosed the consumer's personal data or, if the controller does not maintain this information in a format specific to the consumer, a list of third parties to which the controller has disclosed personal data;

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

(4) delete personal data provided by, or obtained about, the consumer unless retention of the personal data is required by law;

(5) if the processing of personal data is done by automatic means, obtain a copy of the consumer's personal data processed by the controller in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance; and

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

(A) targeted advertising;

(B) the sale of personal data; or

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

(b)(1) A consumer may exercise rights under this section by submitting a request to a controller using the method that the controller specifies in the privacy notice under section 2419 of this title.

(2) A controller shall not require a consumer to create an account for the purpose described in subdivision (1) of this subsection, but the controller may require the consumer to use an account the consumer previously created.

(3) A parent or legal guardian may exercise rights under this section on behalf of the parent's child or on behalf of a child for whom the guardian has legal responsibility. A guardian or conservator may exercise the rights under this section on behalf of a consumer that is subject to a guardianship, conservatorship, or other protective arrangement.

(4)(A) A consumer may designate another person to act on the consumer's behalf as the consumer's authorized agent for the purpose of exercising the consumer's rights under subdivision (a)(4) or (a)(6) of this section.

(B) The consumer may designate an authorized agent by means of an internet link, browser setting, browser extension, global device setting, or other technology that enables the consumer to exercise the consumer's rights under subdivision (a)(4) or (a)(6) of this section.

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

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

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

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

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

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

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

(4)(A) If a controller is unable to authenticate a request to exercise any of the rights afforded under subdivisions (a)(1)–(5) of this section using commercially reasonable efforts, the controller shall not be required to comply with a request to initiate an action pursuant to this section and shall provide notice to the consumer that the controller is unable to authenticate the request to exercise the right or rights until the consumer provides additional information reasonably necessary to authenticate the consumer and the consumer’s request to exercise the right or rights.

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

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

(5) A controller that has obtained personal data about a consumer from a source other than the consumer shall be deemed in compliance with a consumer’s request to delete the data pursuant to subdivision (a)(4) of this section by:

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

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

(6) A controller may not condition the exercise of a right under this section through:

(A) the use of any false, fictitious, fraudulent, or materially misleading statement or representation; or

(B) the employment of any dark pattern.

(d) A controller shall establish a process by means of which a consumer may appeal the controller’s refusal to take action on a request under subsection (b) of this section. The controller’s process must:

(1) Allow a reasonable period of time after the consumer receives the controller's refusal within which to appeal.

(2) Be conspicuously available to the consumer.

(3) Be similar to the manner in which a consumer must submit a request under subsection (b) of this section.

(4) Require the controller to approve or deny the appeal within 45 days after the date on which the controller received the appeal and to notify the consumer in writing of the controller's decision and the reasons for the decision. If the controller denies the appeal, the notice must provide or specify information that enables the consumer to contact the Attorney General to submit a complaint.

(e) Nothing in this section shall be construed to require a controller to reveal a trade secret.

§ 2419. DUTIES OF CONTROLLERS

(a) A controller shall:

(1) limit the collection of personal data to what is reasonably necessary and proportionate to provide or maintain a specific product or service requested by the consumer to whom the data pertains;

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

(3) provide an effective mechanism for a consumer to revoke consent to the controller's processing of the consumer's personal data that is at least as easy as the mechanism by which the consumer provided the consumer's consent; and

(4) upon a consumer's revocation of consent to processing, cease to process the consumer's personal data as soon as practicable, but not later than 15 days after receiving the request.

(b) A controller shall not:

(1) process personal data for a purpose not disclosed in the privacy notice required under subsection (d) of this section unless:

(A) the controller obtains the consumer's consent; or

(B) the purpose is reasonably necessary to and compatible with a disclosed purpose;

(2) process sensitive data about a consumer without first obtaining the consumer's consent or, if the controller knows the consumer is a child, without processing the sensitive data in accordance with COPPA;

(3) sell sensitive data;

(4) discriminate or retaliate against a consumer who exercises a right provided to the consumer under this chapter or refuses to consent to the processing of personal data for a separate product or service, including by:

(A) denying goods or services;

(B) charging different prices or rates for goods or services; or

(C) providing a different level of quality or selection of goods or services to the consumer;

(5) process personal data in violation of State or federal laws that prohibit unlawful discrimination; or

(6)(A) except as provided in subdivision (B) of this subdivision (6), process a consumer's personal data in a manner that discriminates against individuals or otherwise makes unavailable the equal enjoyment of goods or services on the basis of an individual's actual or perceived race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, or national origin;

(B) subdivision (A) of this subdivision (6) shall not apply to:

(i) a private establishment, as that term is used in 42 U.S.C. § 2000a(e) (prohibition against discrimination or segregation in places of public accommodation);

(ii) processing for the purpose of a controller's or processor's self-testing to prevent or mitigate unlawful discrimination; or

(iii) processing for the purpose of diversifying an applicant, participant, or consumer pool.

(c) Subsections (a) and (b) of this section shall not be construed to:

(1) require a controller to provide a good or service that requires personal data from a consumer that the controller does not collect or maintain; or

(2) prohibit a controller from offering a different price, rate, level of quality, or selection of goods or services to a consumer, including an offer for no fee or charge, in connection with a consumer's voluntary participation in a financial incentive program, such as a bona fide loyalty, rewards, premium

features, discount, or club card program, provided that the controller may not transfer personal data to a third party as part of the program unless:

(A) the transfer is necessary to enable the third party to provide a benefit to which the consumer is entitled; or

(B)(i) the terms of the program clearly disclose that personal data will be transferred to the third party or to a category of third parties of which the third party belongs; and

(ii) the consumer consents to the transfer.

(d)(1) A controller shall provide to consumers a reasonably accessible, clear, and meaningful privacy notice that:

(A) lists the categories of personal data, including the categories of sensitive data, that the controller processes;

(B) describes the controller's purposes for processing the personal data;

(C) describes how a consumer may exercise the consumer's rights under this chapter, including how a consumer may appeal a controller's denial of a consumer's request under section 2418 of this title;

(D) lists all categories of personal data, including the categories of sensitive data, that the controller shares with third parties;

(E) describes all categories of third parties with which the controller shares personal data at a level of detail that enables the consumer to understand what type of entity each third party is and, to the extent possible, how each third party may process personal data;

(F) specifies an e-mail address or other online method by which a consumer can contact the controller that the controller actively monitors;

(G) identifies the controller, including any business name under which the controller registered with the Secretary of State and any assumed business name that the controller uses in this State;

(H) provides a clear and conspicuous description of any processing of personal data in which the controller engages for the purposes of targeted advertising, sale of personal data to third parties, or profiling the consumer in furtherance of decisions that produce legal or similarly significant effects concerning the consumer, and a procedure by which the consumer may opt out of this type of processing; and

(I) describes the method or methods the controller has established for a consumer to submit a request under subdivision 2418(b)(1) of this title.

(2) The privacy notice shall adhere to the accessibility and usability guidelines recommended under 42 U.S.C. chapter 126 (the Americans with Disabilities Act) and 29 U.S.C. 794d (section 508 of the Rehabilitation Act of 1973), including ensuring readability for individuals with disabilities across various screen resolutions and devices and employing design practices that facilitate easy comprehension and navigation for all users.

(e) The method or methods under subdivision (d)(1)(I) of this section for submitting a consumer's request to a controller must:

(1) take into account the ways in which consumers normally interact with the controller, the need for security and reliability in communications related to the request, and the controller's ability to authenticate the identity of the consumer that makes the request;

(2) provide a clear and conspicuous link to a website where the consumer or an authorized agent may opt out from a controller's processing of the consumer's personal data pursuant to subdivision 2418(a)(6) of this title or, solely if the controller does not have a capacity needed for linking to a webpage, provide another method the consumer can use to opt out; and

(3) allow a consumer or authorized agent to send a signal to the controller that indicates the consumer's preference to opt out of the sale of personal data or targeted advertising pursuant to subdivision 2418(a)(6) of this title by means of a platform, technology, or mechanism that:

(A) does not unfairly disadvantage another controller;

(B) does not use a default setting but instead requires the consumer or authorized agent to make an affirmative, voluntary, and unambiguous choice to opt out;

(C) is consumer friendly and easy for an average consumer to use;

(D) is as consistent as possible with similar platforms, technologies, or mechanisms required under federal or state laws or regulations; and

(E)(i) enables the controller to reasonably determine whether the consumer has made a legitimate request pursuant to subsection 2418(b) of this title to opt out pursuant to subdivision 2418(a)(6) of this title; and

(ii) for purposes of subdivision (i) of this subdivision (C), use of an internet protocol address to estimate the consumer's location shall be considered sufficient to accurately determine residency.

(f) If a consumer or authorized agent uses a method under subdivision (d)(1)(I) of this section to opt out of a controller's processing of the consumer's personal data pursuant to subdivision 2418(a)(6) of this title and

the decision conflicts with a consumer's voluntary participation in a bona fide reward, club card, or loyalty program or a program that provides premium features or discounts in return for the consumer's consent to the controller's processing of the consumer's personal data, the controller may either comply with the request to opt out or notify the consumer of the conflict and ask the consumer to affirm that the consumer intends to withdraw from the bona fide reward, club card, or loyalty program or the program that provides premium features or discounts. If the consumer affirms that the consumer intends to withdraw, the controller shall comply with the request to opt out.

§ 2420. DUTIES OF CONTROLLERS TO MINORS

(a)(1) A controller that offers any online service, product, or feature to a consumer whom the controller knows or consciously avoids knowing is a minor shall use reasonable care to avoid any heightened risk of harm to minors caused by the online service, product, or feature.

(2) In any action brought pursuant to section 2427 of this title, there is a rebuttable presumption that a controller used reasonable care as required under this section if the controller complied with this section.

(b) A controller that offers any online service, product, or feature to a consumer whom the controller knows or consciously avoids knowing is a minor shall not process the minor's personal data for longer than is reasonably necessary to provide the online service, product, or feature.

(c) A controller that offers any online service, product, or feature to a consumer whom the controller knows or consciously avoids knowing is a minor and who has consented under subdivision 2419(b)(2) of this title to the processing of precise geolocation data shall:

(1) collect the minor's precise geolocation data only as reasonably necessary for the controller to provide the online service, product, or feature; and

(2) provide to the minor a conspicuous signal indicating that the controller is collecting the minor's precise geolocation data and make the signal available to the minor for the entire duration of the collection of the minor's precise geolocation data.

§ 2421. DUTIES OF PROCESSORS

(a) A processor shall adhere to a controller's instructions and shall assist the controller in meeting the controller's obligations under this chapter. In assisting the controller, the processor must:

(1) enable the controller to respond to requests from consumers pursuant to subsection 2418(b) of this title by means that:

(A) take into account how the processor processes personal data and the information available to the processor; and

(B) use appropriate technical and organizational measures to the extent reasonably practicable;

(2) adopt administrative, technical, and physical safeguards that are reasonably designed to protect the security and confidentiality of the personal data the processor processes, taking into account how the processor processes the personal data and the information available to the processor; and

(3) provide information reasonably necessary for the controller to conduct and document data protection assessments.

(b) Processing by a processor must be governed by a contract between the controller and the processor. The contract must:

(1) be valid and binding on both parties;

(2) set forth clear instructions for processing data, the nature and purpose of the processing, the type of data that is subject to processing, and the duration of the processing;

(3) specify the rights and obligations of both parties with respect to the subject matter of the contract;

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

(5) require the processor to delete the personal data or return the personal data to the controller at the controller's direction or at the end of the provision of services, unless a law requires the processor to retain the personal data;

(6) require the processor to make available to the controller, at the controller's request, all information the controller needs to verify that the processor has complied with all obligations the processor has under this chapter;

(7) require the processor to enter into a subcontract with a person the processor engages to assist with processing personal data on the controller's behalf and in the subcontract require the subcontractor to meet the processor's obligations concerning personal data;

(8)(A) allow the controller, the controller's designee, or a qualified and independent person the processor engages, in accordance with an appropriate

and accepted control standard, framework, or procedure, to assess the processor's policies and technical and organizational measures for complying with the processor's obligations under this chapter;

(B) require the processor to cooperate with the assessment; and

(C) at the controller's request, report the results of the assessment to the controller; and

(9) prohibit the processor from combining personal data obtained from the controller with personal data that the processor:

(A) receives from or on behalf of another controller or person; or

(B) collects from an individual.

(c) This section does not relieve a controller or processor from any liability that accrues under this chapter as a result of the controller's or processor's actions in processing personal data.

(d)(1) For purposes of determining obligations under this chapter, a person is a controller with respect to processing a set of personal data and is subject to an action under section 2427 of this title to punish a violation of this chapter, if the person:

(A) does not adhere to a controller's instructions to process the personal data; or

(B) begins at any point to determine the purposes and means for processing the personal data, alone or in concert with another person.

(2) A determination under this subsection is a fact-based determination that must take account of the context in which a set of personal data is processed.

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

§ 2422. DUTIES OF PROCESSORS TO MINORS

(a) A processor shall adhere to the instructions of a controller and shall:

(1) assist the controller in meeting the controller's obligations under sections 2420 and 2424 of this title, taking into account:

(A) the nature of the processing;

(B) the information available to the processor by appropriate technical and organizational measures; and

(C) whether the assistance is reasonably practicable and necessary to assist the controller in meeting its obligations; and

(2) provide any information that is necessary to enable the controller to conduct and document data protection assessments pursuant to section 2424 of this title.

(b) A contract between a controller and a processor must satisfy the requirements in subsection 2421(b) of this title.

(c) Nothing in this section shall be construed to relieve a controller or processor from the liabilities imposed on the controller or processor by virtue of the controller's or processor's role in the processing relationship as described in sections 2420 and 2424 of this title.

(d) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed. A person that is not limited in the person's processing of personal data pursuant to a controller's instructions, or that fails to adhere to the instructions, is a controller and not a processor with respect to a specific processing of data. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor. If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, the processor is a controller with respect to the processing and may be subject to an enforcement action under section 2427 of this title.

§ 2423. DATA PROTECTION ASSESSMENTS FOR PROCESSING
ACTIVITIES THAT PRESENT A HEIGHTENED RISK OF HARM
TO A CONSUMER

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

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

(2) the sale of personal data;

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

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

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

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

(D) other substantial injury to consumers; and

(4) the processing of sensitive data.

(b)(1) Data protection assessments conducted pursuant to subsection (a) of this section shall:

(A) identify the categories of personal data processed, the purposes for processing the personal data, and whether the personal data is being transferred to third parties; and

(B) identify and weigh the benefits that may flow, directly and indirectly, from the processing to the controller, the consumer, other stakeholders, and the public against the potential risks to the consumer associated with the processing, as mitigated by safeguards that can be employed by the controller to reduce the risks.

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

(c)(1) The Attorney General may require that a controller disclose any data protection assessment that is relevant to an investigation conducted by the Attorney General pursuant to section 2427 of this title, and the controller shall make the data protection assessment available to the Attorney General.

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

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

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

(d) A single data protection assessment may address a comparable set of processing operations that present a similar heightened risk of harm.

(e) If a controller conducts a data protection assessment for the purpose of complying with another applicable law or regulation, the data protection assessment shall be deemed to satisfy the requirements established in this

section if the data protection assessment is reasonably similar in scope and effect to the data protection assessment that would otherwise be conducted pursuant to this section.

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

(g) A controller shall retain for at least five years all data protection assessments the controller conducts under this section.

§ 2424. DATA PROTECTION ASSESSMENTS FOR ONLINE SERVICES, PRODUCTS, OR FEATURES OFFERED TO MINORS

(a) A controller that offers any online service, product, or feature to a consumer whom the controller knows or consciously avoids knowing is a minor shall conduct a data protection assessment for the online service product or feature:

(1) in a manner that is consistent with the requirements established in section 2423 of this title; and

(2) that addresses:

(A) the purpose of the online service, product, or feature;

(B) the categories of a minor's personal data that the online service, product, or feature processes;

(C) the purposes for which the controller processes a minor's personal data with respect to the online service, product, or feature; and

(D) any heightened risk of harm to a minor that is a reasonably foreseeable result of offering the online service, product, or feature to a minor.

(b) A controller that conducts a data protection assessment pursuant to subsection (a) of this section shall review the data protection assessment as necessary to account for any material change to the processing operations of the online service, product, or feature that is the subject of the data protection assessment.

(c) If a controller conducts a data protection assessment pursuant to subsection (a) of this section or a data protection assessment review pursuant to subsection (b) of this section and determines that the online service, product, or feature that is the subject of the assessment poses a heightened risk of harm to a minor, the controller shall establish and implement a plan to mitigate or eliminate the heightened risk.

(d)(1) The Attorney General may require that a controller disclose any data protection assessment pursuant to subsection (a) of this section that is relevant

to an investigation conducted by the Attorney General pursuant to section 2427 of this title, and the controller shall make the data protection assessment available to the Attorney General.

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

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

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

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

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

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

(h) A controller that conducts a data protection assessment pursuant to subsection (a) of this section shall maintain documentation concerning the data protection assessment for the longer of:

(1) three years after the date on which the processing operations cease;
or

(2) the date the controller ceases offering the online service, product, or feature.

§ 2425. DE-IDENTIFIED OR PSEUDONYMOUS DATA

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

(1) take reasonable measures to ensure that the data cannot be used to re-identify an identified or identifiable individual or be associated with an individual or device that identifies or is linked or reasonably linkable to an individual or household;

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

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

(b) This section does not prohibit a controller from attempting to re-identify de-identified data solely for the purpose of testing the controller's methods for de-identifying data.

(c) This chapter shall not be construed to require a controller or processor to:

(1) re-identify de-identified data; or

(2) maintain data in identifiable form, or collect, obtain, retain, or access any data or technology, in order to associate a consumer with personal data in order to authenticate the consumer's request under subsection 2418(b) of this title; or

(3) comply with an authenticated consumer rights request if the controller:

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

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

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

(d) The rights afforded under subdivisions 2418(a)(1)–(5) of this title shall not apply to pseudonymous data in cases where the controller is able to demonstrate that any information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing the information.

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

§ 2426. CONSTRUCTION OF DUTIES OF CONTROLLERS AND PROCESSORS

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

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

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

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

(4) carry out obligations under a contract under subsection 2421(b) of this title for a federal or State agency or local unit of government;

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

(6) provide a product or service specifically requested by the consumer to whom the personal data pertains consistent with subdivision 2419(a)(1) of this title;

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

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

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

(10) prevent, detect, protect against, or respond to a network security or physical security incident, including an intrusion or trespass, medical alert, or fire alarm;

(11) prevent, detect, protect against, or respond to identity theft, fraud, harassment, malicious or deceptive activity, or any criminal activity targeted at or involving the controller or processor or its services, preserve the integrity or security of systems, or investigate, report, or prosecute those responsible for the action;

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

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

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

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

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

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

(2) effectuate a product recall; or

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

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

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

(3) Nothing in this chapter modifies 2020 Acts and Resolves No. 166, Sec. 14 or authorizes the use of facial recognition technology by law enforcement.

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

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

(e) This chapter shall not be construed to:

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

(A) to freedom of speech or freedom of the press guaranteed in the First Amendment to the U.S. Constitution; or

(B) under 12 V.S.A. § 1615; or

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

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

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

(ii) in the case of sensitive data, strictly necessary to the purposes listed in this section; and

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

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

(B) Personal data collected, used, or retained pursuant to subsection (b) of this section shall be subject to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data and to reduce reasonably foreseeable risks of harm to consumers relating to the collection, use, or retention of personal data.

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

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

(i) This chapter shall not be construed to require a controller, processor, or consumer health data controller to implement an age-verification or age-gating

system or otherwise affirmatively collect the age of consumers. A controller, processor, or consumer health data controller that chooses to conduct commercially reasonable age estimation to determine which consumers are minors is not liable for an erroneous age estimation.

§ 2427. ENFORCEMENT

(a) A person who violates this chapter or rules adopted pursuant to this chapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title, and the Attorney General shall have exclusive authority to enforce such violations except as provided in subsection (d) of this section.

(b) The Attorney General has the same authority to adopt rules to implement the provisions of this section and to conduct civil investigations, enter into assurances of discontinuance, bring civil actions, and take other enforcement actions as provided under chapter 63, subchapter 1 of this title.

(c)(1) If the Attorney General determines that a violation of this chapter or rules adopted pursuant to this chapter may be cured, the Attorney General may, prior to initiating any action for the violation, issue a notice of violation extending a 60-day cure period to the controller, processor, or consumer health data controller alleged to have violated this chapter or rules adopted pursuant to this chapter.

(2) The Attorney General may, in determining whether to grant a controller, processor, or consumer health data controller the opportunity to cure an alleged violation described in subdivision (1) of this subsection, consider:

(A) the number of violations;

(B) the size and complexity of the controller, processor, or consumer health data controller;

(C) the nature and extent of the controller's, processor's, or consumer health data controller's processing activities;

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

(E) the safety of persons or property;

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

(G) the sensitivity of the data.

(d)(1) The private right of action available to a consumer for violations of this chapter or rules adopted pursuant to this chapter shall be exclusively as provided under this subsection.

(2) A consumer who is harmed by a data broker's or large data holder's violation of subdivision 2419(b)(2) of this title, subdivision 2419(b)(3) of this title, or section 2428 of this title may bring an action under subsection 2461(b) of this title for the violation, but the right available under subsection 2461(b) of this title shall not be available for a violation of any other provision of this chapter or rules adopted pursuant to this chapter.

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

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

(2) the nature of each violation;

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

(4) the number of actions brought under subsection (c) of this section;

(5) the proportion of actions brought under subsection (c) of this section that proceed to trial;

(6) the data brokers or large data holders most frequently sued under subsection (c) of this section; and

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

§ 2428. CONFIDENTIALITY OF CONSUMER HEALTH DATA

Except as provided in subsections 2417(a) and (b) of this title and section 2426 of this title, no person shall:

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

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

(3) use a geofence to establish a virtual boundary that is within 1,850 feet of any health care facility, including any mental health facility or reproductive or sexual health facility, for the purpose of identifying, tracking, collecting data from, or sending any notification to a consumer regarding the consumer's consumer health data.

Sec. 2. PUBLIC EDUCATION AND OUTREACH; ATTORNEY GENERAL STUDY

(a) The Attorney General shall implement a comprehensive public education, outreach, and assistance program for controllers and processors as those terms are defined in 9 V.S.A. § 2415. The program shall focus on:

(1) the requirements and obligations of controllers and processors under the Vermont Data Privacy Act;

(2) data protection assessments under 9 V.S.A. § 2421;

(3) enhanced protections that apply to children, minors, sensitive data, or consumer health data as those terms are defined in 9 V.S.A. § 2415;

(4) a controller's obligations to law enforcement agencies and the Attorney General's office;

(5) methods for conducting data inventories; and

(6) any other matters the Attorney General deems appropriate.

(b) The Attorney General shall provide guidance to controllers for establishing data privacy notices and opt-out mechanisms, which may be in the form of templates.

(c) The Attorney General shall implement a comprehensive public education, outreach, and assistance program for consumers as that term is defined in 9 V.S.A. § 2415. The program shall focus on:

(1) the rights afforded consumers under the Vermont Data Privacy Act, including:

(A) the methods available for exercising data privacy rights; and

(B) the opt-out mechanism available to consumers;

(2) the obligations controllers have to consumers;

(3) different treatment of children, minors, and other consumers under the act, including the different consent mechanisms in place for children and other consumers;

(4) understanding a privacy notice provided under the Act;

(5) the different enforcement mechanisms available under the Act, including the consumer's private right of action; and

(6) any other matters the Attorney General deems appropriate.

(d) The Attorney General shall cooperate with states with comparable data privacy regimes to develop any outreach, assistance, and education programs, where appropriate.

(e) The Attorney General may have the assistance of the Vermont Law and Graduate School in developing education, outreach, and assistance programs under this section.

(f) On or before December 15, 2026, the Attorney General shall assess the effectiveness of the implementation of the Act and submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs with its findings and recommendations, including any proposed draft legislation to address issues that have arisen since implementation.

Sec. 3. 9 V.S.A. chapter 62 is amended to read:

CHAPTER 62. PROTECTION OF PERSONAL INFORMATION

Subchapter 1. General Provisions

§ 2430. DEFINITIONS

As used in this chapter:

(1) “Biometric data” shall have the same meaning as in section 2415 of this title.

(2)(A) “Brokered personal information” means one or more of the following computerized data elements about a consumer, if categorized or organized for dissemination to third parties:

- (i) name;
- (ii) address;
- (iii) date of birth;
- (iv) place of birth;
- (v) mother’s maiden name;

~~(vi) unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee of the data to identify or authenticate the consumer, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data;~~

(vii) name or address of a member of the consumer’s immediate family or household;

(viii) Social Security number or other government-issued identification number; or

(ix) other information that, alone or in combination with the other information sold or licensed, would allow a reasonable person to identify the consumer with reasonable certainty.

(B) “Brokered personal information” does not include publicly available information to the extent that it is related to a consumer’s business or profession.

~~(2)~~(3) “Business” means a controller, a consumer health data controller, a processor, or a commercial entity, including a sole proprietorship, partnership, corporation, association, limited liability company, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this State, any other state, the United States, or any other country, or the parent, affiliate, or subsidiary of a financial institution, but does not include the State, a State agency, any political subdivision of the State, or a vendor acting solely on behalf of, and at the direction of, the State.

~~(3)~~(4) “Consumer” means an individual residing in this State.

(5) “Consumer health data controller” has the same meaning as in section 2415 of this title.

(6) “Controller” has the same meaning as in section 2415 of this title.

~~(4)~~(7)(A) “Data broker” means a business, or unit or units of a business, separately or together, that knowingly collects and sells or licenses to third parties the brokered personal information of a consumer with whom the business does not have a direct relationship.

(B) Examples of a direct relationship with a business include if the consumer is a past or present:

- (i) customer, client, subscriber, user, or registered user of the business’s goods or services;
- (ii) employee, contractor, or agent of the business;
- (iii) investor in the business; or
- (iv) donor to the business.

(C) The following activities conducted by a business, and the collection and sale or licensing of brokered personal information incidental to conducting these activities, do not qualify the business as a data broker:

(i) developing or maintaining third-party e-commerce or application platforms;

(ii) providing 411 directory assistance or directory information services, including name, address, and telephone number, on behalf of or as a function of a telecommunications carrier;

(iii) providing publicly available information related to a consumer's business or profession; or

(iv) providing publicly available information via real-time or near-real-time alert services for health or safety purposes.

(D) The phrase "sells or licenses" does not include:

(i) a one-time or occasional sale of assets of a business as part of a transfer of control of those assets that is not part of the ordinary conduct of the business; or

(ii) a sale or license of data that is merely incidental to the business.

~~(5)~~(8)(A) "Data broker security breach" means an unauthorized acquisition or a reasonable belief of an unauthorized acquisition of more than one element of brokered personal information maintained by a data broker when the brokered personal information is not encrypted, redacted, or protected by another method that renders the information unreadable or unusable by an unauthorized person.

(B) "Data broker security breach" does not include good faith but unauthorized acquisition of brokered personal information by an employee or agent of the data broker for a legitimate purpose of the data broker, provided that the brokered personal information is not used for a purpose unrelated to the data broker's business or subject to further unauthorized disclosure.

(C) In determining whether brokered personal information has been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data broker may consider the following factors, among others:

(i) indications that the brokered personal information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing brokered personal information;

(ii) indications that the brokered personal information has been downloaded or copied;

(iii) indications that the brokered personal information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the brokered personal information has been made public.

~~(6)~~(9) “Data collector” means a person who, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with personally identifiable information, and includes the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, and retail operators.

~~(7)~~(10) “Encryption” means use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key.

~~(8)~~(11) “License” means a grant of access to, or distribution of, data by one person to another in exchange for consideration. A use of data for the sole benefit of the data provider, where the data provider maintains control over the use of the data, is not a license.

~~(9)~~(12) “Login credentials” means a consumer’s user name or e-mail address, in combination with a password or an answer to a security question, that together permit access to an online account.

~~(10)~~(13)(A) “Personally identifiable information” means a consumer’s first name or first initial and last name in combination with one or more of the following digital data elements, when the data elements are not encrypted, redacted, or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) a Social Security number;

(ii) a driver license or nondriver State identification card number, individual taxpayer identification number, passport number, military identification card number, or other identification number that originates from a government identification document that is commonly used to verify identity for a commercial transaction;

(iii) a financial account number or credit or debit card number, if the number could be used without additional identifying information, access codes, or passwords;

(iv) a password, personal identification number, or other access code for a financial account;

~~(v) unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee of the data to identify or authenticate the consumer, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data;~~

(vi) genetic information; and

(vii)(I) health records or records of a wellness program or similar program of health promotion or disease prevention;

(II) a health care professional's medical diagnosis or treatment of the consumer; or

(III) a health insurance policy number.

(B) "Personally identifiable information" does not mean publicly available information that is lawfully made available to the general public from federal, State, or local government records.

(14) "Processor" has the same meaning as in section 2415 of this title.

~~(11)~~(15) "Record" means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

~~(12)~~(16) "Redaction" means the rendering of data so that the data are unreadable or are truncated so that ~~no~~ not more than the last four digits of the identification number are accessible as part of the data.

~~(13)~~(17)(A) "Security breach" means unauthorized acquisition of electronic data, or a reasonable belief of an unauthorized acquisition of electronic data, that compromises the security, confidentiality, or integrity of a consumer's personally identifiable information or login credentials maintained by a data collector.

(B) "Security breach" does not include good faith but unauthorized acquisition of personally identifiable information or login credentials by an employee or agent of the data collector for a legitimate purpose of the data collector, provided that the personally identifiable information or login credentials are not used for a purpose unrelated to the data collector's business or subject to further unauthorized disclosure.

(C) In determining whether personally identifiable information or login credentials have been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data collector may consider the following factors, among others:

(i) indications that the information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing information;

(ii) indications that the information has been downloaded or copied;

(iii) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the information has been made public.

* * *

Subchapter 2. ~~Security Breach Notice Act~~ Data Security Breaches

* * *

§ 2436. NOTICE OF DATA BROKER SECURITY BREACH

(a) Short title. This section shall be known as the Data Broker Security Breach Notice Act.

(b) Notice of breach.

(1) Except as otherwise provided in subsection (c) of this section, any data broker shall notify the consumer that there has been a data broker security breach following discovery or notification to the data broker of the breach. Notice of the security breach shall be made in the most expedient time possible and without unreasonable delay, but not later than 45 days after the discovery or notification, consistent with the legitimate needs of the law enforcement agency, as provided in subdivisions (3) and (4) of this subsection, or with any measures necessary to determine the scope of the security breach and restore the reasonable integrity, security, and confidentiality of the data system.

(2) A data broker shall provide notice of a breach to the Attorney General as follows:

(A)(i) The data broker shall notify the Attorney General of the date of the security breach and the date of discovery of the breach and shall provide a preliminary description of the breach within 14 business days, consistent with the legitimate needs of the law enforcement agency, as provided in subdivisions (3) and (4) of this subsection (b), after the data broker's discovery of the security breach or when the data broker provides notice to consumers pursuant to this section, whichever is sooner.

(ii) If the date of the breach is unknown at the time notice is sent to the Attorney General, the data broker shall send the Attorney General the date of the breach as soon as it is known.

(iii) Unless otherwise ordered by a court of this State for good cause shown, a notice provided under this subdivision (2)(A) shall not be disclosed to any person other than the authorized agent or representative of the Attorney General, a State's Attorney, or another law enforcement officer engaged in legitimate law enforcement activities without the consent of the data broker.

(B)(i) When the data broker provides notice of the breach pursuant to subdivision (1) of this subsection (b), the data broker shall notify the Attorney General of the number of Vermont consumers affected, if known to the data broker, and shall provide a copy of the notice provided to consumers under subdivision (1) of this subsection (b).

(ii) The data broker may send to the Attorney General a second copy of the consumer notice, from which is redacted the type of brokered personal information that was subject to the breach, that the Attorney General shall use for any public disclosure of the breach.

(3) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. In the event law enforcement makes the request for a delay in a manner other than in writing, the data broker shall document the request contemporaneously in writing and include the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data broker in writing when the law enforcement agency no longer believes that notification may impede a law enforcement investigation or a national or Homeland Security investigation, or jeopardize public safety or national or Homeland Security interests. The data broker shall provide notice required by this section without unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

(4) The notice to a consumer required in subdivision (1) of this subsection shall be clear and conspicuous. A notice to a consumer of a security breach involving brokered personal information shall include a description of each of the following, if known to the data broker:

(A) the incident in general terms;

(B) the type of brokered personal information that was subject to the security breach;

(C) the general acts of the data broker to protect the brokered personal information from further security breach;

(D) a telephone number, toll-free if available, that the consumer may call for further information and assistance;

(E) advice that directs the consumer to remain vigilant by reviewing account statements and monitoring free credit reports; and

(F) the approximate date of the data broker security breach.

(5) A data broker may provide notice of a security breach involving brokered personal information to a consumer by two or more of the following methods:

(A) written notice mailed to the consumer's residence;

(B) electronic notice, for those consumers for whom the data broker has a valid e-mail address, if:

(i) the data broker's primary method of communication with the consumer is by electronic means, the electronic notice does not request or contain a hypertext link to a request that the consumer provide personal information, and the electronic notice conspicuously warns consumers not to provide personal information in response to electronic communications regarding security breaches; or

(ii) the notice is consistent with the provisions regarding electronic records and signatures for notices in 15 U.S.C. § 7001;

(C) telephonic notice, provided that telephonic contact is made directly with each affected consumer and not through a prerecorded message; or

(D) notice by publication in a newspaper of statewide circulation in the event the data broker cannot effectuate notice by any other means.

(c) Exception.

(1) Notice of a security breach pursuant to subsection (b) of this section is not required if the data broker establishes that misuse of brokered personal information is not reasonably possible and the data broker provides notice of the determination that the misuse of the brokered personal information is not reasonably possible pursuant to the requirements of this subsection. If the data

broker establishes that misuse of the brokered personal information is not reasonably possible, the data broker shall provide notice of its determination that misuse of the brokered personal information is not reasonably possible and a detailed explanation for said determination to the Vermont Attorney General. The data broker may designate its notice and detailed explanation to the Vermont Attorney General as a trade secret if the notice and detailed explanation meet the definition of trade secret contained in 1 V.S.A. § 317(c)(9).

(2) If a data broker established that misuse of brokered personal information was not reasonably possible under subdivision (1) of this subsection and subsequently obtains facts indicating that misuse of the brokered personal information has occurred or is occurring, the data broker shall provide notice of the security breach pursuant to subsection (b) of this section.

(d) Waiver. Any waiver of the provisions of this subchapter is contrary to public policy and is void and unenforceable.

(e) Enforcement.

(1) With respect to a controller or processor other than a controller or processor licensed or registered with the Department of Financial Regulation under Title 8 or this title, the Attorney General and State's Attorney shall have sole and full authority to investigate potential violations of this chapter and to enforce, prosecute, obtain, and impose remedies for a violation of this chapter or any rules or regulations adopted pursuant to this chapter as the Attorney General and State's Attorney have under chapter 63 of this title. The Attorney General may refer the matter to the State's Attorney in an appropriate case. The Superior Courts shall have jurisdiction over any enforcement matter brought by the Attorney General or a State's Attorney under this subsection.

(2) With respect to a controller or processor that is licensed or registered with the Department of Financial Regulation under Title 8 or this title, the Department of Financial Regulation shall have the full authority to investigate potential violations of this chapter and to enforce, prosecute, obtain, and impose remedies for a violation of this chapter or any rules or regulations adopted pursuant to this chapter, as the Department has under Title 8 or this title or any other applicable law or regulation.

* * *

Subchapter 5. Data Brokers

§ 2446. DATA BROKERS; ANNUAL REGISTRATION

(a) Annually, on or before January 31 following a year in which a person meets the definition of data broker as provided in section 2430 of this title, a data broker shall:

- (1) register with the Secretary of State;
- (2) pay a registration fee of \$100.00; and
- (3) provide the following information:

(A) the name and primary physical, e-mail, and ~~Internet~~ internet addresses of the data broker;

(B) if the data broker permits a consumer to opt out of the data broker's collection of brokered personal information, opt out of its databases, or opt out of certain sales of data:

(i) the method for requesting an opt-out;

(ii) if the opt-out applies to only certain activities or sales, which ones; and

(iii) whether the data broker permits a consumer to authorize a third party to perform the opt-out on the consumer's behalf;

(C) a statement specifying the data collection, databases, or sales activities from which a consumer may not opt out;

(D) a statement whether the data broker implements a purchaser credentialing process;

(E) the number of data broker security breaches that the data broker has experienced during the prior year, and if known, the total number of consumers affected by the breaches;

(F) where the data broker has actual knowledge that it possesses the brokered personal information of minors, a separate statement detailing the data collection practices, databases, sales activities, and opt-out policies that are applicable to the brokered personal information of minors; and

(G) any additional information or explanation the data broker chooses to provide concerning its data collection practices.

(b) A data broker that fails to register pursuant to subsection (a) of this section is liable to the State for:

(1) a civil penalty of ~~\$50.00~~ \$125.00 for each day, ~~not to exceed a total of \$10,000.00 for each year,~~ it fails to register pursuant to this section;

(2) an amount equal to the fees due under this section during the period it failed to register pursuant to this section; and

(3) other penalties imposed by law.

(c) A data broker that omits required information from its registration shall file an amendment to include the omitted information within 30 business days following notification of the omission and is liable to the State for a civil penalty of \$1,000.00 per day for each day thereafter.

(d) A data broker that files materially incorrect information in its registration:

(1) is liable to the State for a civil penalty of \$25,000.00; and

(2) if it fails to correct the false information within 30 business days after discovery or notification of the incorrect information, an additional civil penalty of \$1,000.00 per day for each day thereafter that it fails to correct the information.

(e) The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in this section and to seek appropriate injunctive relief.

* * *

§ 2448. DATA BROKERS; CREDENTIALING

(a) Credentialing.

(1) A data broker shall maintain reasonable procedures designed to ensure that the brokered personal information it discloses is used for a legitimate and legal purpose.

(2) These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information shall be used for no other purpose.

(3) A data broker shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by the prospective user prior to furnishing the user brokered personal information.

(4) A data broker shall not furnish brokered personal information to any person if it has reasonable grounds for believing that the brokered personal information will not be used for a legitimate and legal purpose.

Sec. 4. STUDY; DATA BROKERS; OPT OUT

On or before January 1, 2025, the Secretary of State, in collaboration with the Agency of Digital Services, the Attorney General, and interested parties, shall review and report their findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning one or more mechanisms for Vermont consumers to opt out of the collection, retention, and sale of brokered personal information, including:

(1) an individual opt out that requires a data broker to allow a consumer to opt out of its data collection, retention, and sales practices through a request made directly to the data broker; and

(2) specifically considering the rules, procedures, and framework for implementing the “accessible deletion mechanism” by the California Privacy Protection Agency that takes effect on January 1, 2026, and approaches in other jurisdictions if applicable:

(A) how to design and implement a State-facilitated general opt out mechanism;

(B) the associated implementation and operational costs;

(C) mitigation of security risks; and

(D) other relevant considerations.

Sec. 5. 9 V.S.A. § 2416(a) is amended to read:

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

(1) controlled or processed the personal data of not fewer than ~~25,000~~ 12,500 consumers, excluding personal data controlled or processed solely for the purpose of completing a payment transaction; or

(2) controlled or processed the personal data of not fewer than ~~12,500~~ 6,250 consumers and derived more than ~~25~~ 20 percent of the person’s gross revenue from the sale of personal data.

Sec. 6. 9 V.S.A. § 2416(a) is amended to read:

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

(1) controlled or processed the personal data of not fewer than ~~12,500~~
6,250 consumers, excluding personal data controlled or processed solely for the purpose of completing a payment transaction; or

(2) controlled or processed the personal data of not fewer than ~~6,250~~
3,125 consumers and derived more than 20 percent of the person's gross revenue from the sale of personal data.

Sec. 7. 9 V.S.A. chapter 62, subchapter 6 is added to read:

Subchapter 6. Age-Appropriate Design Code

§ 2449a. DEFINITIONS

As used in this subchapter:

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

(B) As used in subdivision (A) of this subdivision (1), "control" or "controlled" means:

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

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

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

(2) "Age-appropriate" means a recognition of the distinct needs and diversities of minor consumers at different age ranges. In order to help support the design of online services, products, and features, covered businesses should take into account the unique needs and diversities of different age ranges, including the following developmental stages: zero to five years of age or "preliterate and early literacy"; six to nine years of age or "core primary school years"; 10 to 12 years of age or "transition years"; 13 to 15 years of age or "early teens"; and 16 to 17 years of age or "approaching adulthood."

(3) "Age estimation" means a process that estimates that a user is likely to be of a certain age, fall within an age range, or is over or under a certain age.

(A) Age estimation methods include:

(i) analysis of behavioral and environmental data the covered business already collects about its users;

(ii) comparing the way a user interacts with a device or with users of the same age;

(iii) metrics derived from motion analysis; and

(iv) testing a user's capacity or knowledge.

(B) Age estimation does not require certainty, and if a covered business estimates a user's age for the purpose of advertising or marketing, that estimation may also be used to comply with this act.

(4) "Age verification" means a system that relies on hard identifiers or verified sources of identification to confirm a user has reached a certain age, including government-issued identification or a credit card.

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

(6) "Collect" means buying, renting, gathering, obtaining, receiving, or accessing any personal data by any means. This includes receiving data from the consumer, either actively or passively, or by observing the consumer's behavior.

(7)(A) "Consumer" means an individual who is a resident of the State.

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

(8) "Covered business" means a sole proprietorship, partnership, limited liability company, corporation, association, other legal entity, or an affiliate thereof, that conducts business in this State or that produces online products, services, or features that are targeted to residents of this State and that:

(A) collects consumers' personal data or has consumers' personal data collected on its behalf by a third party;

(B) alone or jointly with others determines the purposes and means of the processing of consumers personal data; and

(C) alone or in combination annually buys, receives for commercial purposes, sells, or shares for commercial purposes, alone or in combination, the personal data of at least 50 percent of its consumers.

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

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

(11) “Default” means a preselected option adopted by the covered business for the online service, product, or feature.

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

(A)(i) takes reasonable measures to ensure that the data cannot be used to re-identify an identified or identifiable individual or be associated with an individual or device that identifies or is linked or reasonably linkable to an individual or household;

(ii) for purposes of this subdivision (A), “reasonable measures” shall include the de-identification requirements set forth under 45 C.F.R. § 164.514 (other requirements relating to uses and disclosures of protected health information);

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

(C) contractually obligates any recipients of the data to comply with all provisions of this subchapter.

(13) “Derived data” means data that is created by the derivation of information, data, assumptions, correlations, inferences, predictions, or conclusions from facts, evidence, or another source of information or data about a minor consumer or a minor consumer’s device.

(14) “Identified or identifiable individual” means an individual who can be readily identified, directly or indirectly, including by reference to an identifier such as a name, an identification number, specific geolocation data, or an online identifier.

(15)(A) “Low-friction variable reward” means a design feature or virtual item that intermittently rewards consumers for scrolling, tapping, opening, or continuing to engage in an online service, product, or feature.

(B) Examples of low-friction variable reward designs include endless scroll, auto play, and nudges meant to encourage reengagement.

(16)(A) “Minor consumer” means an individual under 18 years of age who is a resident of the State.

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

(17) “Online service, product, or feature” means a digital product that is accessible to the public via the internet, including a website or application, and does not mean any of the following:

(A) telecommunications service, as defined in 47 U.S.C. § 153;

(B) a broadband internet access service as defined in 47 C.F.R. § 54.400; or

(C) the sale, delivery, or use of a physical product.

(18)(A) “Personal data” means any information, including derived data and unique identifiers, that is linked or reasonably linkable to an identified or identifiable individual or to a device that identifies, is linked to, or is reasonably linkable to one or more identified or identifiable individuals in a household.

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

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

(20) “Processor” means a person who processes personal data on behalf of a covered business.

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

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

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

(B) a covered business has a reasonable basis to believe that the minor consumer has lawfully made available to the general public through widely distributed media.

(23) “Reasonably likely to be accessed” means an online service, product, or feature that is likely to be accessed by minor consumers based on any of the following indicators:

(A) the online service, product, or feature is directed to children, as defined by the Children’s Online Privacy Protection Act, 15 U.S.C. §§ 6501–6506 and the Federal Trade Commission rules implementing that Act;

(B) the online service, product, or feature is determined, based on competent and reliable evidence regarding audience composition, to be routinely accessed by an audience that is composed of at least two percent minor consumers two through under 18 years of age;

(C) the online service, product, or feature contains advertisements marketed to minor consumers;

(D) the audience of the online service, product, or feature is determined, based on internal company research, to be composed of at least two percent minor consumers two through under 18 years of age; or

(E) the covered business knew or should have known that at least two percent of the audience of the online service, product, or feature includes minor consumers two through under 18 years of age, provided that, in making this assessment, the business shall not collect or process any personal data that is not reasonably necessary to provide an online service, product, or feature with which a minor consumer is actively and knowingly engaged.

(24)(A) “Social media platform” means a public or semi-public internet-based service or application that is primarily intended to connect and allow a user to socially interact within such service or application and enables a user to:

(i) construct a public or semi-public profile for the purposes of signing into and using such service or application;

(ii) populate a public list of other users with whom the user shares a social connection within such service or application; or

(iii) create or post content that is viewable by other users, including content on message boards and in chat rooms, and that presents the user with content generated by other users.

(B) “Social media platform” does not mean a public or semi-public internet-based service or application that:

(i) exclusively provides electronic mail or direct messaging services;

(ii) primarily consists of news, sports, entertainment, interactive video games, electronic commerce, or content that is preselected by the provider for which any interactive functionality is incidental to, directly related to, or dependent on the provision of such content; or

(iii) is used by and under the direction of an educational entity, including a learning management system or a student engagement program.

(25) “Third party” means a natural or legal person, public authority, agency, or body other than the minor consumer or the covered business.

§ 2449b. EXCLUSIONS

This subchapter does not apply to:

(1) a federal, state, tribal, or local government entity in the ordinary course of its operation;

(2) protected health information that a covered entity or business associate processes in accordance with, or documents that a covered entity or business associate creates for the purpose of complying with, HIPAA;

(3) information used only for public health activities and purposes described in 45 C.F.R. § 164.512;

(4) information that identifies a consumer in connection with:

(A) activities that are subject to the Federal Policy for the Protection of Human Subjects as set forth in 45 C.F.R. Part 46;

(B) research on human subjects undertaken in accordance with good clinical practice guidelines issued by the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use;

(C) activities that are subject to the protections provided in 21 C.F.R. 50 and 21 C.F.R. Part 56; or

(D) research conducted in accordance with the requirements set forth in subdivisions (A)–(C) of this subdivision (4) or otherwise in accordance with State or federal law; and

(5) an entity whose primary purpose is journalism as defined in 12 V.S.A. § 1615(a)(2) and that has a majority of its workforce consisting of individuals engaging in journalism.

§ 2449c. MINIMUM DUTY OF CARE

(a) A covered business that processes a minor consumer's data in any capacity owes a minimum duty of care to the minor consumer.

(b) As used in this subchapter, "a minimum duty of care" means the use of the personal data of a minor consumer and the design of an online service, product, or feature will not benefit the covered business to the detriment of a minor consumer and will not result in:

(1) reasonably foreseeable emotional distress as defined in 13 V.S.A. § 1061(2) to a minor consumer;

(2) the encouragement of excessive or compulsive use of the online service, product, or feature by a minor consumer; or

(3) discrimination against the minor consumer based upon race, ethnicity, sex, disability, sexual orientation, gender identity, gender expression, or national origin.

§ 2449d. COVERED BUSINESS OBLIGATIONS

(a) A covered business that is reasonably likely to be accessed and subject to this subchapter shall:

(1) configure all default privacy settings provided to a minor consumer through the online service, product, or feature to a high level of privacy;

(2) provide privacy information, terms of service, policies, and community standards concisely and prominently;

(3) provide prominent, accessible, and responsive tools to help a minor consumer or, if applicable, their parents or guardians to exercise their privacy rights and report concerns to the covered business;

(4) honor the request of a minor consumer to unpublish the minor consumer's social media platform account not later than 15 business days after a covered business receives such a request from a minor consumer; and

(5) provide easily accessible and age-appropriate tools for a minor consumer to limit the ability of users or covered businesses to send unsolicited communications.

(b) A violation of this section constitutes a violation of the minimum duty of care as provided in section 2449c of this subchapter.

§ 2449e. COVERED BUSINESS PROHIBITIONS

(a) A covered business that is reasonably likely to be accessed and subject to this subchapter shall not:

(1) use low-friction variable reward design features that encourage excessive and compulsive use by a minor consumer;

(2) permit, by default, an unknown adult to contact a minor consumer on its platform without the minor consumer first initiating that contact;

(3) permit a minor consumer to be exploited by a contract on the online service, product, or feature;

(4) use dark patterns; or

(5) permit a parent or guardian of a minor consumer, or any other consumer, to monitor the online activity of a minor consumer or to track the location of the minor consumer without providing a conspicuous signal to the minor consumer when the minor consumer is being monitored or tracked.

(b) A violation of this section constitutes a violation of the minimum duty of care as provided in section 2449c of this subchapter.

§ 2449f. ATTORNEY GENERAL ENFORCEMENT

(a) A covered business that violates this subchapter or rules adopted pursuant to this subchapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(b) The Attorney General shall have the same authority under this subchapter to make rules, conduct civil investigations, bring civil actions, and enter into assurances of discontinuance as provided under chapter 63 of this title.

§ 2449g. LIMITATIONS

Nothing in this subchapter shall be interpreted or construed to:

(1) Impose liability in a manner that is inconsistent with 47 U.S.C. § 230.

(2) Prevent or preclude any minor consumer from deliberately or independently searching for, or specifically requesting, content.

(3) Require a covered business to implement an age verification requirement. The obligations imposed under this act should be done with age estimation techniques and do not require age verification.

§ 2449h. RIGHTS AND FREEDOMS OF MINOR CONSUMERS

It is the intent of the General Assembly that nothing in this act may be construed to infringe on the existing rights and freedoms of minor consumers or be construed to discriminate against the minor consumer based on race,

ethnicity, sex, disability, sexual orientation, gender identity, gender expression, or national origin.

Sec. 8. EFFECTIVE DATES

(a) This section and Secs. 2 (public education and outreach), 3 (protection of personal information), and 4 (data broker opt-out study) shall take effect on July 1, 2024.

(b) Secs. 1 (Vermont Data Privacy Act) and 7 (Age-Appropriate Design Code) shall take effect on July 1, 2025.

(c) Sec. 5 (Vermont Data Privacy Act middle applicability threshold) shall take effect on July 1, 2026.

(d) Sec. 6 (Vermont Data Privacy Act low applicability threshold) shall take effect on July 1, 2027.

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

An act relating to enhancing consumer privacy and the age-appropriate design code.

H. 687

An act relating to community resilience and biodiversity protection through land use

The House concurs in the Senate proposal of amendment with further proposal of amendment thereto as follows:

First: By adding a Sec. 1a to read as follows:

Sec. 1a. PURPOSE

The purpose of this act is to further assist the State in achieving the conservation vision and goals for the State established in 10 V.S.A. § 2802 and 24 V.S.A. § 4302. It provides a regulatory framework that supports the vision for Vermont of human and natural community resilience and biodiversity protection in the face of climate change, as described in 2023 Acts and Resolves No. 59. It would strengthen the administration of the Act 250 program by changing the structure, function, and name of the Natural Resources Board. The program updates established in this act would be used to guide State financial investment in human and natural infrastructure.

Second: In Sec. 3, 10 V.S.A. § 6032, in subsection (b), by striking out “July 31” and inserting in lieu thereof June 30

Third: In Sec. 8, 10 V.S.A. § 6086(h), in the second sentence, by striking out “and shall be notarized”

Fourth: In Sec. 11, Land Use Review Board appointments; revision authority, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) The Governor shall appoint the members of the Land Use Review Board on or before January 1, 2025, and the terms of any Natural Resources Board member not appointed consistent with the requirements of 10 V.S.A. § 6021(a)(1)(A) or (B) shall expire on that day.

Fifth: In Sec. 11, Land Use Review Board appointments; revision authority, in subsection (b), by striking out “July” and inserting in lieu thereof of January

Sixth: In Sec. 19, 10 V.S.A. § 6001(3)(A)(xii), in subdivision (II), after the first sentence by inserting “Routine maintenance and minor repairs of a Class 4 highway shall not constitute an “improvement.” Routine maintenance shall include replacing a culvert or ditch, applying new stone, grading, or making repairs after adverse weather. Routine maintenance shall not include changing the size of the road, changing the location or layout of the road, or adding pavement.”

Seventh: In Sec. 19, 10 V.S.A. § 6001(3)(A)(xii), by striking out subdivision (IV) in its entirety and inserting in lieu thereof a new (IV) to read as follows:

(IV) This subdivision (xii) shall not apply to:

(aa) a State or municipal road, a utility corridor of an electric transmission or distribution company, or a road used primarily for farming or forestry purposes;

(bb) development within a Tier 1A area established in accordance with section 6034 of this title or a Tier 1B area established in accordance with section 6033 of this title; and

(cc) improvements underway when this section takes effect to a Class 4 highway that will be transferred to the municipality.

Eighth: In Sec. 22, Tier 3 rulemaking, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) The Land Use Review Board, in consultation with the Secretary of Natural Resources, shall adopt rules to implement the requirements for the administration of 10 V.S.A. § 6001(3)(A)(xiii) and 10 V.S.A. § 6001(46) and (19). It is the intent of the General Assembly that these rules identify critical natural resources for protection. The Board shall review the definition of Tier 3 area; determine the critical natural resources that shall be included in Tier 3,

giving due consideration to river corridors, headwater streams, habitat connectors of statewide significance, riparian areas, class A waters, and natural communities; any additional critical natural resources that should be added to the definition; and how to define the boundaries. Rules adopted by the Board shall include:

(1) any necessary clarifications to how the Tier 3 definition is used in 10 V.S.A. chapter 151, including whether and how subdivisions would be covered under the jurisdiction of Tier 3;

(2) any necessary changes to how 10 V.S.A. § 6001(3)(A)(xiii) should be administered and when jurisdiction should be triggered to protect the functions and values of resources of critical natural resources;

(3) the process for how Tier 3 areas will be mapped or identified by the Agency of Natural Resources and the Board;

(4) other policies or programs that shall be developed to review development impacts to Tier 3 areas if they are not included in 10 V.S.A. § 6001(46); and

(5) if a critical natural resource area is not recommended for protection under Tier 3, it shall be identified in the rule, and a rationale shall be provided as to why the critical resource was not selected for Tier 3 protection.

Ninth: In Sec. 22, Tier 3 rulemaking, in subsection (c) after the first sentence, by adding:

After the Land Use Review Board files the rule with Legislative Committee on Administrative Rules, it shall submit a report describing the rules and the issues reviewed under this section to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy.

Tenth: By striking out Sec. 24, 10 V.S.A. § 6001(3)(D)(viii)(III), in its entirety and inserting in lieu thereof a new Sec. 24 to read as follows:

Sec. 24. 10 V.S.A. § 6001(3)(D)(viii)(III) is amended to read:

(III) Notwithstanding any other provision of law to the contrary, until July 1, 2026–January 1, 2027, the construction of a priority housing project located entirely within areas of a designated downtown development district, designated neighborhood development area, or a designated growth center or within one-half mile around such designated center with permanent zoning and subdivision bylaws served by public sewer or water services or soils that are adequate for wastewater disposal. For purposes of this subdivision (III), in order for a parcel to qualify for the exemption, at least 51 percent of the parcel shall be located within one-half

mile of the designated center boundary. If the one-half mile around the designated center extends into an adjacent municipality, the legislative body of the adjacent municipal may inform the Board that it does not want the exemption to extend into that area.

Eleventh: By striking out Sec. 25, repeals, in its entirety and inserting in lieu thereof a new Sec. 25 to read as follows:

Sec. 25. REPEAL

2023 Acts and Resolves No. 47, Sec. 19c is repealed.

Twelfth: By adding a Sec. 25a to read as follows:

Sec. 25a. 2023 Acts and Resolves No. 47, Sec. 16a is amended to read:

Sec. 16a. ACT 250 EXEMPTION REQUIREMENTS

In order to qualify for the exemptions established in 10 V.S.A. § 6001 ~~(3)(A)(xi) and (3)(D)(viii)(III) and 10 V.S.A. § 6081(dd)~~, a person shall request a jurisdictional opinion under 10 V.S.A. § 6007 on or before ~~June 30~~ December 31, 2026. The jurisdictional opinion shall require the project to substantially complete construction on or before June 30, 2029 in order to remain exempt.

Thirteenth: By striking out Sec. 27, 10 V.S.A. § 6033, in its entirety and inserting in lieu thereof a new Sec. 27 to read as follows:

Sec. 27. 10 V.S.A. § 6033 is added to read:

§ 6033. REGIONAL PLAN FUTURE LAND USE MAP REVIEW

(a) The Board shall review requests from regional planning commissions to approve or disapprove portions of future land use maps for the purposes of changing jurisdictional thresholds under this chapter by identifying areas on future land use maps for Tier 1B area status and to approve designations pursuant to 24 V.S.A. chapter 139. The Board may produce guidelines for regional planning commissions seeking Tier 1B area status. If requested by the regional planning commission, the Board shall complete this review concurrently with regional plan approval. A municipality may have multiple noncontiguous areas receive Tier 1B area status. A request for Tier 1B area status made by a regional planning commission separate from regional plan approval shall follow the process set forth in 24 V.S.A. § 4348.

(b) The Board shall review the portions of future land use maps that include downtowns or village centers, planned growth areas, and village areas to ensure they meet the requirements under 24 V.S.A. §§ 5803 and 5804 for designation as downtown and village centers and neighborhood areas.

(c) To obtain a Tier 1B area status under this section the regional planning commission shall demonstrate to the Board that the municipalities with Tier 1B areas meet the following requirements as included in subdivision 24 V.S.A. § 4348a(a)(12)(C):

(1) The municipality has requested to have the area mapped for Tier 1B.

(2) The municipality has a duly adopted and approved plan and a planning process that is confirmed in accordance with 24 V.S.A. § 4350.

(3) The municipality has adopted permanent zoning and subdivision bylaws in accordance with 24 V.S.A. §§ 4414, 4418, and 4442.

(4) The area excludes identified flood hazard and fluvial erosion areas, except those areas containing preexisting development in areas suitable for infill development as defined in § 29-201 of the Vermont Flood Hazard Area and River Corridor Rule unless the municipality has adopted flood hazard and river corridor bylaws applicable to the entire municipality that are consistent with the standards established pursuant to subsection 755(b) of this title (flood hazard) and subsection 1428(b) of this title (river corridor).

(5) The municipality has water supply, wastewater infrastructure, or soils that can accommodate a community system for compact housing development in the area proposed for Tier 1B.

(6) The municipality has municipal staff or contracted capacity adequate to support development review and zoning administration in the Tier 1B area.

Fourteenth: In Sec. 28, 10 V.S.A. § 6034, in subsection (b), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) To obtain a Tier 1A area status under this section, a municipality shall demonstrate to the Board that it has each of the following:

(A) A municipal plan that is approved in accordance with 24 V.S.A. § 4350.

(B) The boundaries are consistent with downtown or village centers and planned growth areas as defined 24 V.S.A. § 4348a(a)(12) in an approved regional plan future land use map with any minor amendments.

(C) The municipality has adopted flood hazard and river corridor bylaws, applicable to the entire municipality, that are consistent with or stronger than the standards established pursuant to subsection 755(b) of this title (flood hazard) and subsection 1428(b) of this title (river corridor) or the proposed Tier 1A area excludes the flood hazard areas and river corridor.

(D) The municipality has adopted permanent zoning and subdivision bylaws that do not include broad exemptions that exclude significant private or public land development from requiring a municipal land use permit.

(E) The municipality has permanent land development regulations for the Tier 1A area that further the smart growth principles of 24 V.S.A. chapter 76A, adequately regulate the physical form and scale of development, provide reasonable provision for a portion of the areas with sewer and water to allow at least four stories, and conform to the guidelines established by the Board.

(F) The Tier 1A area is compatible with the character of adjacent National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government.

(G) The municipality has identified and planned for the maintenance of significant natural communities, rare, threatened, and endangered species located in the Tier 1A area or excluded those areas from the Tier 1A area.

(H) Public water and wastewater systems have the capacity to support additional development within the Tier 1A area.

(I) Municipal staff adequate to support coordinated comprehensive and capital planning, development review, and zoning administration in the Tier 1A area.

Fifteenth: In Sec. 31, 10 V.S.A. § 6081, by striking out subsection (dd) in its entirety and inserting in lieu thereof a new subsection (dd) to read as follows:

(dd) Interim housing exemptions.

(1) Notwithstanding any other provision of law to the contrary, until January 1, 2027, no permit or permit amendment is required for the construction of housing projects such as cooperatives, condominiums, dwellings, or mobile homes, with 75 units or fewer, constructed or maintained on a tract or tracts of land, located entirely within the areas of a designated new town center, a designated growth center, or a designated neighborhood development area served by public sewer or water services or soils that are adequate for wastewater disposal. Housing units constructed pursuant to this subdivision shall not count towards the total units constructed in other areas. This exemption shall not apply to areas within mapped river corridors and floodplains except those areas containing preexisting development in areas suitable for infill development as defined in 29-201 of the Vermont Flood Hazard Area and River Corridor Rule.

(2)(A) Notwithstanding any other provision of law to the contrary, until January 1, 2027, no permit or permit amendment is required for the construction of housing projects such as cooperatives, condominiums, dwellings, or mobile homes, with 50 or fewer units, constructed or maintained on a tract or tracts of land of 10 acres or less, located entirely within areas of a designated village center and within one-quarter mile of its boundary with permanent zoning and subdivision bylaws and served by public sewer or water services or soils that are adequate for wastewater disposal.

(B) Housing units constructed pursuant to this subdivision shall not count towards the total units constructed in other areas. This exemption shall not apply to areas within mapped river corridors and floodplains except those areas containing preexisting development in areas suitable for infill development as defined in 29-201 of the Vermont Flood Hazard Area and River Corridor Rule. For purposes of this subdivision, in order for a parcel to qualify for the exemption, at least 51 percent of the parcel shall be located within one-quarter mile of the designated village center boundary. If the one-quarter mile extends into an adjacent municipality, the legislative body of the adjacent municipal may inform the Board that it does not want the exemption to extend into that area.

(3) Notwithstanding any other provision of law to the contrary, until January 1, 2027, no permit or permit amendment is required for the construction of housing projects such as cooperatives, condominiums, dwellings, or mobile homes, constructed or maintained on a tract or tracts of land, located entirely within a designated downtown development district with permanent zoning and subdivision bylaws served by public sewer or water services or soils that are adequate for wastewater disposal. Housing units constructed pursuant to this subdivision shall not count towards the total units constructed in other areas. This exemption shall not apply to areas within mapped river corridors and floodplains except those areas containing preexisting development in areas suitable for infill development as defined in 29-201 of the Vermont Flood Hazard Area and River Corridor Rule.

Sixteenth: By striking out Sec. 32, 10 V.S.A. § 6001(50) and (51), in its entirety and inserting in lieu thereof a new Sec. 32 to read as follows:

Sec. 32. 10 V.S.A. § 6001(50) is added to read:

(50) “Accessory dwelling unit” means a distinct unit that is clearly subordinate to a single-family dwelling, is located on an owner-occupied lot, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all of the following:

(A) the unit does not exceed 30 percent of the habitable floor area of the single-family dwelling or 900 square feet, whichever is greater; and

(B) the unit is located within or appurtenant to an existing single-family dwelling.

Seventeenth: In Sec. 52, 24 V.S.A. § 4412, in subdivision (1)(D), by striking out the third sentence in its entirety and inserting in lieu thereof the following:

In any district that allows year-round residential development, duplexes shall be an allowed use with the same dimensional standards as that are not more restrictive than is required for a single-unit dwelling, including no additional land or lot area than would be required for a single-unit dwelling.

Eighteenth: In Sec. 52, 24 V.S.A. § 4412, by striking out subdivision (12) in its entirety and inserting in lieu thereof the following:

(12) In any area served by municipal sewer and water infrastructure that allows residential development, bylaws shall establish lot and building dimensional standards that allow five or more dwelling units per acre for each allowed residential use, and density. Density and minimum lot size standards for multiunit dwellings shall not be more restrictive than those required for single-family dwellings.

Nineteenth: By striking out Sec. 57, 24 V.S.A. § 4429, in its entirety and inserting in lieu thereof of the following:

Sec. 57. [Deleted.]

Twentieth: By striking out Sec. 58, 24 V.S.A. § 4464, in its entirety and inserting in lieu thereof the following:

Sec. 58. [Deleted.]

Twenty-first: By striking out Sec. 59, 24 V.S.A. § 4465, in its entirety and inserting in lieu thereof the following:

Sec. 59. [Deleted.]

Twenty-second: By striking out Sec. 68, 32 V.S.A. § 5930aa, in its entirety and inserting in lieu thereof the following:

Sec. 68. [Deleted.]

Twenty-third: By striking out Secs. 73–78 in their entireties and inserting in lieu thereof new Secs. 73–78 to read as follows:

Sec. 73. 32 V.S.A. § 9602 is amended to read:

§ 9602. TAX ON TRANSFER OF TITLE TO PROPERTY

(a) A tax is hereby imposed upon the transfer by deed of title to property located in this State, or a transfer or acquisition of a controlling interest in any person with title to property in this State. The amount of the tax equals ~~one and one-quarter~~ 1.25 percent of the value of the property transferred up to \$750,000.00 of value and 3.65 percent of the value of the property transferred in excess of \$750,000.00, or \$1.00, whichever is greater, except as follows:

(1) With respect to the transfer of property to be used for the principal residence of the transferee, the tax shall be imposed at the rate of ~~five-tenths of one~~ 0.5 percent of the first ~~\$100,000.00~~ \$200,000.00 in value of the property transferred and at the rate of ~~one and one-quarter~~ 1.25 percent of the value of the property transferred in excess of ~~\$100,000.00~~ \$200,000.00; except that no tax shall be imposed on the first ~~\$110,000.00~~ \$250,000.00 in value of the property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or that the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase; and tax at the rate of ~~one and one-quarter~~ 1.25 percent shall be imposed on the value of that property in excess of ~~\$110,000.00~~ \$250,000.00. In all cases, the tax shall be imposed at the rate of 3.65 percent of the value of the property transferred in excess of \$750,000.00.

(2) [Repealed.]

(3) With respect to the transfer to a housing cooperative organized under 11 V.S.A. chapter 7 and whose sole purpose is to provide principal residences for all of its members or shareholders, or to an affordable housing cooperative under 11 V.S.A. chapter 14, of property to be used as the principal residence of a member or shareholder, the tax shall be imposed in the amount of ~~five-tenths of one~~ 0.5 percent of the first ~~\$100,000.00~~ \$200,000.00 in value of the residence transferred and at the rate of ~~one and one-quarter~~ 1.25 percent of the value of the residence transferred in excess of ~~\$100,000.00~~ \$200,000.00; provided that the homesite leased by the cooperative is used exclusively as the principal residence of a member or shareholder. If the transferee ceases to be an eligible cooperative at any time during the six years following the date of transfer, the transferee shall then become obligated to pay any reduction in property transfer tax provided under this subdivision, and the obligation to pay the additional tax shall also run with the land. In all cases, the tax shall be imposed at the rate of 3.65 percent of the value of the property transferred in excess of \$750,000.00.

(b) Each year on August 1, the Commissioner shall adjust the values taxed at a lower rate under subdivisions (a)(1) and (3) of this section according to the percent change in the Bureau of Labor Statistics Consumer Price Index for All

Urban Consumers (CPI-U) by determining the increase or decrease, to the nearest 0.1 percent, for the month ending on June 30 in the calendar year one year prior to the first day of the current fiscal year compared to the CPI-U for the month ending on June 30 in the calendar year two years prior. The Commissioner shall update the return required under section 9610 of this title according to this adjustment.

Sec. 74. 32 V.S.A. § 9602a is amended to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of ~~0.2~~ 0.22 percent on the value of property subject to the property transfer tax under section 9602 of this title, except that there shall be no surcharge on the first ~~\$100,000.00~~ \$200,000.00 in value of property to be used for the principal residence of the transferee or the first ~~\$200,000.00~~ \$250,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or that the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. The surcharge shall be in addition to any tax assessed under section 9602 of this title. The surcharge assessed under this section shall be paid, collected, and enforced under this chapter in the same manner as the tax assessed under section 9602 of this title. The Commissioner shall deposit the surcharge collected under this section in the Clean Water Fund under 10 V.S.A. § 1388, except for the first \$1,000,000.00 of revenue generated by the surcharge, which shall be deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

Sec. 75. 2017 Acts and Resolves No. 85, Sec. I.10 is amended to read:

Sec. I.10 32 V.S.A. § 9602a is amended to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of ~~0.2~~ 0.04 percent on the value of property subject to the property transfer tax under section 9602 of this title, except that there shall be no surcharge on the first ~~\$100,000.00~~ \$200,000.00 in value of property to be used for the principal residence of the transferee or the first ~~\$200,000.00~~ \$250,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. The surcharge shall be in addition to any tax assessed under section 9602 of this title. The

surcharge assessed under this section shall be paid, collected, and enforced under this chapter in the same manner as the tax assessed under section 9602 of this title. The Commissioner shall deposit the surcharge collected under this section ~~in the Clean Water Fund under 10 V.S.A. § 1388, except for the first \$1,000,000.00 of revenue generated by the surcharge, which shall be deposited~~ in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

Sec. 75a. 32 V.S.A. § 9610(c) is amended to read:

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and subdivision 435(b)(10) of this title, ~~two~~ 1.5 percent of the revenues received from the property transfer tax shall be deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs.

Sec. 76. 24 V.S.A. § 4306(a) is amended to read:

(a)(1) The Municipal and Regional Planning Fund for the purpose of assisting municipal and regional planning commissions to carry out the intent of this chapter is hereby created in the State Treasury.

(2) The Fund shall be composed of ~~17~~ 13 percent of the revenue deposited from the property transfer tax under 32 V.S.A. chapter 231 and any monies from time to time appropriated to the Fund by the General Assembly or received from any other source, private or public. All balances at the end of any fiscal year shall be carried forward and remain in the Fund. Interest earned by the Fund shall be deposited in the Fund.

* * *

Sec. 77. 32 V.S.A. § 435(b) is amended to read:

(b) The General Fund shall be composed of revenues from the following sources:

- (1) alcoholic beverage tax levied pursuant to 7 V.S.A. chapter 15;
- (2) [Repealed.]
- (3) [Repealed.]
- (4) corporate income and franchise taxes levied pursuant to chapter 151 of this title;
- (5) individual income taxes levied pursuant to chapter 151 of this title;
- (6) all corporation taxes levied pursuant to chapter 211 of this title;

(7) 69 percent of the meals and rooms taxes levied pursuant to chapter 225 of this title;

(8) [Repealed.]

(9) [Repealed.]

(10) ~~33~~ 37 percent of the revenue from the property transfer taxes levied pursuant to chapter 231 of this title and the revenue from the gains taxes levied each year pursuant to chapter 236 of this title; and

(11) [Repealed.]

(12) all other revenues accruing to the State not otherwise required by law to be deposited in any other designated fund or used for any other designated purpose.

Sec. 78. TRANSFERS; PROPERTY TRANSFER TAX

Notwithstanding 10 V.S.A. § 312, 24 V.S.A. § 4306(a), 32 V.S.A. § 9610(c), or any other provision of law to the contrary, amounts in excess of \$32,954,775.00 from the property transfer tax shall be transferred into the General Fund. Of this amount:

(1) \$6,106,310.00 shall be transferred from the General Fund into the Vermont Housing and Conservation Trust Fund.

(2) \$1,279,740.00 shall be transferred from the General Fund into the Municipal and Regional Planning Fund.

Twenty-fourth: By striking out Secs. 79–83, property value freeze for new construction and rehabilitation, in their entireties and inserting in lieu thereof new Secs. 79–83 to read as follows:

Sec. 79. [Deleted.]

Sec. 80. [Deleted.]

Sec. 81. [Deleted.]

Sec. 82. [Deleted.]

Sec. 83. [Deleted.]

Twenty-fifth: By adding a new section to be Sec. 83a to read as follows:

Sec. 83a. 32 V.S.A. § 9603 is amended to read:

§ 9603. EXEMPTIONS

(a) The following transfers are exempt from the tax imposed by this chapter:

* * *

(27)(A) Transfers of abandoned dwellings that the transferee certifies will be rehabilitated for occupancy as principal residences and not as short-term rentals as defined under 18 V.S.A. § 4301(a)(14), provided the rehabilitation is completed and occupied not later than three years after the date of the transfer. If three years after the date of transfer the rehabilitation has not been completed and occupied, then the tax imposed by this chapter shall become due.

(B) As used in this subdivision (27):

(i) “Abandoned” means real estate owned by a municipality and acquired through condemnation or a tax sale, provided the real estate has substandard structural or housing conditions, including unsanitary and unsafe dwellings and deterioration sufficient to constitute a threat to human health, safety, and public welfare.

(ii) “Completed” means rehabilitation of a dwelling to be fit for occupancy as a principal residence.

(iii) “Principal residence” means a dwelling occupied by a resident individual as the individual’s domicile during the taxable year and for a property owner, owned, or for a renter, rented under a rental agreement other than a short-term rental as defined under 18 V.S.A. § 4301(a)(14).

(iv) “Rehabilitation” means extensive repair, reconstruction, or renovation of an existing dwelling beyond normal and ordinary maintenance, painting, repairs, or replacements, with or without demolition, new construction, or enlargement.

(28) Transfers of a new mobile home, as that term is defined in 10 V.S.A. § 6201(1), that:

(A) bears a label evidencing, at a minimum, greater energy efficiency under the ENERGY STAR Program established in 42 U.S.C. § 6294a; or

(B) is certified as a Zero Energy Ready Home by the U.S. Department of Energy.

(b) The following transfers shall not pay a rate higher than 1.25 percent of the value of the property transferred:

(1) Transfers of property that are enrolled in the Use Value Appraisal Program pursuant to chapter 124 of this title, and will continue to be enrolled after transfer, provided:

(A) at least 25 acres are enrolled as agricultural land, as defined in subdivision 3752(1)(A) of this title; and

(B) the transferee is a farmer, as defined in subdivision 3752(7) of this title.

Twenty-sixth: By adding a reader assistance heading and three new sections to be Secs. 94–96 to read as follows:

* * * Eviction Prevention Initiatives * * *

Sec. 94. APPROPRIATION; RENTAL HOUSING STABILIZATION SERVICES

The sum of \$400,000.00 is appropriated from the General Fund to the Office of Economic Opportunity within the Department for Children and Families in fiscal year 2025 for a grant to the Champlain Valley Office of Economic Opportunity for the Rental Housing Stabilization Services Program established by 2023 Acts and Resolves No. 47, Sec. 43.

Sec. 95. APPROPRIATION; TENANT REPRESENTATION PILOT PROGRAM

The sum of \$1,025,000.00 is appropriated from the General Fund to the Agency of Human Services in fiscal year 2025 for a grant to Vermont Legal Aid for the Tenant Representation Pilot Program established by 2023 Acts and Resolves No. 47, Sec. 44.

Sec. 96. APPROPRIATION; RENT ARREARS ASSISTANCE FUND

The sum of \$2,500,000.00 is appropriated from the General Fund to the Vermont State Housing Authority in fiscal year 2025 for the Rent Arrears Assistance Fund established by 2023 Acts and Resolves No. 47, Sec. 45.

Twenty-seventh: By striking out Secs. 102–104 in their entireties and inserting in lieu thereof new Secs. 102–104 to read as follows:

Sec. 102. 27 V.S.A. § 380 is added to read:

§ 380. DISCLOSURE OF INFORMATION; CONVEYANCE OF REAL ESTATE

(a) Prior to or as part of a contract for the conveyance of real property, the seller shall provide the buyer with the following information:

(1) whether the real property is located in a Federal Emergency Management Agency mapped special flood hazard area;

(2) whether the real property is located in a Federal Emergency Management Agency mapped moderate flood hazard area;

(3) whether the real property was subject to flooding or flood damage while the seller possessed the property, including flood damage from inundation or from flood-related erosion or landslide damage; and

(4) whether the seller maintains flood insurance on the real property.

(b) The failure of the seller to provide the buyer with the information required under subsection (a) of this section is grounds for the buyer to terminate the contract prior to transfer of title or occupancy, whichever occurs earlier.

(c) A buyer of real estate who fails to receive the information required to be disclosed by a seller under subsection (a) of this section may bring an action to recover from the seller the amount of the buyer's damages and reasonable attorney's fees. The buyer may also seek punitive damages when the seller knowingly failed to provide the required information.

(d) A seller shall not be liable for damages under this section for any error, inaccuracy, or omission of any information required to be disclosed to the buyer under subsection (a) of this section when the error, inaccuracy, or omission was based on information provided by a public body or by another person with a professional license or special knowledge who provided a written report that the seller reasonably believed to be correct and that was provided by the seller to the buyer.

(e) Noncompliance with the requirements of this section shall not affect the marketability of title of a real property.

Sec. 103. 9 V.S.A. § 4466 is added to read:

§ 4466. REQUIRED DISCLOSURE; MODEL FORM

(a) A landlord shall disclose in advance of entering a rental agreement with a tenant whether any portion of the premises offered for rent is located in a Federal Emergency Management Agency mapped special flood hazard area. This notice shall be provided to the tenant at or before execution of the lease in a separate written document substantially in the form prescribed by the Department of Housing and Community Development pursuant to subsection (b) of this section.

(b) The Department of Housing and Community Development shall develop a model form for the notice provided under this section that shall include the information required under subsection (a) of this section.

Sec. 104. 10 V.S.A. § 6236(e) is amended to read:

(e) All mobile home lot leases shall contain the following:

* * *

(8)(A) Notice that the mobile home park is in a flood hazard area if any lot within the mobile home park is wholly or partially located in a flood hazard area according to the flood insurance rate map effective for the mobile home park at the time the proposed lease is furnished to a prospective leaseholder. This notice shall be provided in a clear and conspicuous manner in a separate written document substantially in the form prescribed by the Department of Housing and Community Development pursuant to subdivision (B) of this subdivision (8) and attached as an addendum to the proposed lease.

(B) The Department of Housing and Community Development shall develop a model form for the notice provided under this section that shall include the information required under subdivision (A) of this subdivision (8).

Twenty-Eighth: By adding a new section to be Sec. 105a to read as follows:

Sec. 105a. 9 V.S.A. § 2602 is amended to read:

§ 2602. SALE OR TRANSFER; PRICE DISCLOSURE; MOBILE HOME
UNIFORM BILL OF SALE

(a) Appraisal; disclosure. When a mobile home is sold or offered for sale:

(1) If a mobile home is appraised, the appraisal shall include a cover sheet that itemizes the value of the unsited mobile home, the value of any adjacent or attached structures located on the site and the value of the sited location, if applicable, and valuations of sales of comparable properties.

(2) In the case of a new mobile home, the seller shall provide to a prospective buyer a written disclosure that states the retail price of the unsited mobile home, any applicable taxes, the set-up and transportation costs, and the value of the sited location, if applicable.

(3) In the case of a mobile home as defined in 10 V.S.A. § 6201, the seller shall provide to a prospective buyer a written disclosure of any flooding history or flood damage to the mobile home known to the seller, including flood damage from inundation or from flood-related erosion or landslide damage.

(4) A legible copy of the disclosure required in subdivision (2) of this subsection shall be prominently displayed on a new mobile home in a location that is clearly visible to a prospective buyer from the exterior.

* * *

Twenty-ninth: By striking out Sec. 111, land bank report, in its entirety and inserting in lieu thereof a new Sec. 111 to read as follows:

Sec. 111. [Deleted.]

Thirtieth: In Sec. 113, landlord-tenant law; Study Committee; report, by striking out subsection (h) in its entirety and inserting in lieu thereof a new subsection (h) to read as follows:

(h) Appropriation. The sum of \$7,700.00 is appropriated to the General Assembly from the General Fund in fiscal year 2025 for per diem compensation and reimbursement of expenses for members of the Committee.

Thirty-first: By striking out Secs. 113a, long-term affordable housing; Study Committee; report, and 113b, appropriation; Natural Resources Board, and its reader assistance heading in their entireties and inserting in lieu thereof new Secs. 113a–113b and a reader assistance heading to read as follows:

Sec. 113a. [Deleted.]

* * * Natural Resources Board Appropriation * * *

Sec. 113b. APPROPRIATION; NATURAL RESOURCES BOARD

The sum of \$1,300,000.00 is appropriated from the General Fund to the Natural Resources Board in fiscal year 2025.

Thirty-second: By striking out Sec. 114, effective dates, in its entirety and inserting in lieu thereof a new Sec. 114 to read as follows:

Sec. 114. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 12 (10 V.S.A. § 6001), 13 (10 V.S.A. § 6086(a)(8)), and 21 (10 V.S.A. § 6001) shall take effect on December 31, 2026;

(2) Sec. 19 (10 V.S.A. § 6001(3)(A)(xii)) shall take effect on July 1, 2026;

(3) Secs. 73 (property transfer tax rates) and 83a (property transfer tax exemptions) shall take effect on August 1, 2024; and

(4) Sec. 98 (landlord certificate data collection) shall take effect on July 1, 2025.

And that after passage the title of the bill remain:

An act relating to community resilience and biodiversity protection through land use

Report of Committee of Conference

H. 563.

An act relating to criminal motor vehicle offenses involving unlawful trespass, theft, or unauthorized operation.

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

H. 563 An act relating to criminal motor vehicle offenses involving unlawful trespass, theft, or unauthorized operation.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 3705 is amended to read:

§ 3705. UNLAWFUL TRESPASS

(a)(1) A person shall be imprisoned for not more than three months or fined not more than \$500.00, or both, if, without legal authority or the consent of the person in lawful possession, ~~he or she~~ the person enters or remains on any land or in any place as to which notice against trespass is given by:

(A) actual communication by the person in lawful possession or ~~his or her~~ the person's agent or by a law enforcement officer acting on behalf of such person or ~~his or her~~ the person's agent;

(B) signs or placards so designed and situated as to give reasonable notice; or

(C) in the case of abandoned property:

(i) signs or placards, posted by the owner, the owner's agent, or a law enforcement officer, and so designed and situated as to give reasonable notice; or

(ii) actual communication by a law enforcement officer.

(2) As used in this subsection, "abandoned property" means:

(A) real property on which there is a vacant structure that for the previous 60 days has been continuously unoccupied by a person with the legal right to occupy it and with respect to which the municipality has by first-class mail to the owner's last known address provided the owner with notice and an opportunity to be heard; and

(i) property taxes have been delinquent for six months or more; or

(ii) one or more utility services have been disconnected; or

(B) a railroad car that for the previous 60 days has been unmoved and unoccupied by a person with the legal right to occupy it.

(b) Prosecutions for offenses under subsection (a) of this section shall be commenced within 60 days following the commission of the offense and not thereafter.

(c) A person who enters the motor vehicle of another and knows that the person does not have legal authority or the consent of the person in lawful possession of the motor vehicle to do so shall be imprisoned not more than three months or fined not more than \$500.00, or both. For a second or subsequent offense, a person who violates this subsection shall be imprisoned not more than one year or fined not more than \$500.00, or both. Notice against trespass shall not be required under this subsection.

(d) A person who enters a building other than a residence, whose access is normally locked, whether or not the access is actually locked, or a residence in violation of an order of any court of competent jurisdiction in this State shall be imprisoned for not more than one year or fined not more than \$500.00, or both.

~~(d)~~(e) A person who enters a dwelling house, whether or not a person is actually present, knowing that ~~he or she~~ the person is not licensed or privileged to do so shall be imprisoned for not more than three years or fined not more than \$2,000.00, or both.

~~(e)~~(f) A law enforcement officer shall not be prosecuted under subsection (a) of this section if ~~he or she~~ the law enforcement officer is authorized to serve civil or criminal process, including citations, summons, subpoenas, warrants, and other court orders, and the scope of ~~his or her~~ the law enforcement officer's entrance onto the land or place of another is ~~no~~ not more than necessary to effectuate the service of process.

Sec. 2. 23 V.S.A. § 1094 is amended to read:

§ 1094. OPERATION WITHOUT CONSENT OF OWNER;

AGGRAVATED OPERATION WITHOUT CONSENT OF OWNER

(a) A person commits the crime of operation without consent of the owner if:

(1) the person takes, obtains, operates, uses, or continues to operate the motor vehicle of another when the person should have known that the person did not have the consent of the owner to do so; or

(2) ~~the person, without the consent of the owner, knowingly takes, obtains, operates, uses, or continues to operate the motor vehicle of another when the person knows that the person did not have the consent of the owner to do so.~~

* * *

(c) ~~A person convicted under subdivision (a)(1) of this section shall be fined not more than \$500.00. A person convicted under subsection subdivision (a)(2) of this section of operation without consent of the owner shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.~~

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

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

An act relating to unlawful trespass in a motor vehicle and unauthorized operation of a motor vehicle without the owner's consent

NADER A. HASHIM

ROBERT W. NORRIS

TANYA C. VYHOVSKY

Committee on the part of the Senate

THOMAS B. BURDITT

KAREN DOLAN

ANGELA ARSENAULT

Committee on the part of the House

ORDERED TO LIE

S. 94.

An act relating to the City of Barre tax increment financing district.

CONCURRENT RESOLUTIONS FOR ACTION

Concurrent Resolutions For Action Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session. Requests for floor consideration should be communicated to the Secretary's Office.

S.C.R. 16 - 17, and 19 (For text of Resolutions, see Addendum to Senate Calendar of May 9, 2024)

H.C.R. 247 - 260 (For text of Resolutions, see Addendum to House Calendar of May 9, 2024)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Julie Hulburd of Colchester - Member, Cannabis Control Board - Sen. Vyhovsky for the Committee on Government Operations. (4/10/2024)

Robin Lunge of Berlin - Member, Green Mountain Care Board - Sen. Hardy for the Committee on Health and Welfare. (5/9/2024)

Alex Farrell of South Burlington - Commissioner, Housing and Community Development - Sen. Ram Hinsdale for the Committee on Economic Development, Housing and General Affairs. (5/10/2024)

Rob Ciappenelli of Warren - Public Member, Board of Medical Practice - Sen. Hardy for the Committee on Health and Welfare. (5/9/2024)

David Coddair, MD of Morrisville - M.D. Member, Board of Medical Practice - Sen. Hardy for the Committee on Health and Welfare. (5/9/2024)

Evan Eyler of Montpelier - M.D. Member, Board of Medical Practice - Sen. Weeks for the Committee on Health and Welfare. (5/9/2024)

Rick Hildebrandt of Clarendon - M.D. Member, Board of Medical Practice - Sen. Weeks for the Committee on Health and Welfare. (5/9/2024)

Dawn Philibert of South Burlington - Public Member, Board of Medical Practice - Sen. Lyons for the Committee on Health and Welfare. (5/9/2024)

Judith Scott of St. George - Public Member, Board of Medical Practice - Sen. Gulick for the Committee on Health and Welfare. (5/9/2024)

Robert Tortolani of Brattleboro - M.D. Member, Board of Medical Practice - Sen. Williams for the Committee on Health and Welfare. (5/9/2024)

Clarence Davis of Shelburne - Member, Vermont Housing and Conservation Board - Sen. Ram Hinsdale for the Committee on Economic Development, Housing and General Affairs. (5/10/2024)

Kim Gobeille of Shelburne - Member, Vermont Economic Progress Council - Sen. Ram Hinsdale for the Committee on Economic Development, Housing and General Affairs. (5/10/2024)

Janet Metz of Jericho - Member, Employment Security Board - Sen. Ram Hinsdale for the Committee on Economic Development, Housing and General Affairs. (5/10/2024)

John Benoit of Barre - Master Electrician Member, Electricians Licensing Board - Sen. Clarkson for the Committee on Economic Development, Housing and General Affairs. (5/11/2024)

Mary Houghton of Putney - Commissioner, Vermont State Housing Authority - Sen. Clarkson for the Committee on Economic Development, Housing and General Affairs. (5/11/2024)

John Russell, III of Rutland - Member, Vermont Economic Progress Council - Sen. Clarkson for the Committee on Economic Development, Housing and General Affairs. (5/11/2024)

James B. Stewart of Pittsford - Member, Vermont Economic Progress Council (term from and including March 6, 2023, to and including March 31, 2023) - Sen. Clarkson for the Committee on Economic Development, Housing and General Affairs. (5/11/2024)

James B. Stewart of Pittsford - Member, Vermont Economic Progress Council (term from and including April 3, 2023, to and including March 31, 2027) - Sen. Clarkson for the Committee on Economic Development, Housing and General Affairs. (5/11/2024)

JFO NOTICE

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3):

JFO #3199: \$1,000,000.00 from the U.S. Department of Energy through Vermont Energy Efficiency Coop to the Vermont Military Department. Funds will be used for facility upgrades in the Westminster and Berlin Armories to help study the effects of thermal energy storage on heating and cooling loads in electrified facilities.

The grant requires a 20% state match of \$250,000.00 which will be funded through an appropriation of existing capital funds.

[Received April 18, 2024]

JFO #3200: \$1,105,839.00 to the Department of Public Safety, VT Emergency Management from the Federal Emergency Management Agency. Funds for the repair and replacement of facilities affected during the severe storm and flooding event in Addison County from August 3-5, 2023.

[Received April 29, 2024]

JFO #3201: \$1,594,420.00 to the Vermont Public Service Department from the U.S. Department of Energy. The funds are for the creation of the Municipal Energy Resilience Revolving Fund (MERF) designated by the Vermont Legislature in [Act 172 of 2022](#) to support state and local energy efficiency projects.

[Received April 29, 2024]

JFO #3202: \$3,296,092.00 to the Vermont Agency of Human Services, Department of Children and Families from the Federal Emergency Management Agency. Funds to provide services for families impacted by the July 2023 flood event.

[Received April 29, 2024]

FOR INFORMATION ONLY

CROSSOVER DATES

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 15, 2024**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day. House Committee bills must be voted out of Committee by Friday, March 15, 2024 and introduced the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 22, 2024**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, Pay Bill, and Miscellaneous Tax Bill).