

1 H.373

2 Introduced by Representative Pugh of South Burlington

3 Referred to Committee on Human Services

4 Date:

5 Subject: Human services; Title 33 reorganization

6 Statement of purpose of bill as introduced: This bill proposes to update and
7 reorganize Title 33 of the Vermont Statutes Annotated. It would also move
8 provisions of existing law from other titles to Title 33 and from Title 33 to
9 other titles and would make other technical, clarifying, and conforming
10 changes.

11 An act relating to updating and reorganizing Title 33

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 ~~Sec. 1. 33 V.S.A. chapter 1 is redesignated to read:~~

14 ~~CHAPTER 1. DEPARTMENT OF PREVENTION, ASSISTANCE,~~
15 ~~TRANSITION, AND HEALTH ACCESS FOR CHILDREN AND FAMILIES~~

16 Sec. 2. 33 V.S.A. § 101 is amended to read:

17 § 101. ~~SOCIAL WELFARE POLICY OF THE STATE OF VERMONT~~

18 It is the policy of the ~~state~~ State of Vermont that:

1 ~~(1) Its social and child welfare programs shall provide assistance and~~
2 ~~benefits to persons of the ~~state~~ State in proven need thereof and eligible for~~
3 ~~such assistance and benefits under the provisions of this title;~~

4 (2) It is the purpose of its social and child welfare laws to establish and
5 support programs which contribute to the prevention of dependency and social
6 maladjustment; and contribute to the rehabilitation and protection of persons of
7 the State.

8 (3) Assistance and benefits shall be administered promptly, with due
9 regard for the preservation of family life, and without restriction of individual
10 rights or discrimination on account of race, religion, political affiliation, or
11 place of residence within the ~~state~~; State.

12 (4) Assistance and benefits shall be so administered as to maintain and
13 encourage dignity, self-respect, and self-reliance. It is the legislative intent
14 that assistance granted shall be adequate to maintain a reasonable standard of
15 health and decency based on current cost of living indices. Notwithstanding
16 this subdivision, the ~~department~~ Department will amend rules that establish
17 new maximum Reach Up grant amounts only when the ~~general assembly~~
18 General Assembly has taken affirmative action to increase or decrease the
19 Reach Up financial assistance appropriation.

20 (5) The programs of the Department for Children and Families shall be
21 designed to strengthen family life for the care and protection of children; to

1 ~~assist and encourage the use by any family of all available personal and~~
2 reasonable community resources to this end; and to provide substitute care of
3 children only when the family, with the use of available resources, is unable to
4 provide the necessary care and protection to assure the right of any child to
5 sound health and to normal physical, mental, spiritual, and moral development.

6 Sec. 3. 33 V.S.A. § 102 is amended to read:

7 § 102. DEFINITIONS AND CONSTRUCTION

8 (a) ~~Unless otherwise expressly provided, the words and phrases in this~~
9 ~~chapter mean~~ As used in this chapter:

10 (1) ~~Aid:~~ “Aid” means financial assistance.

11 (2) ~~Assistance (when “Assistance,” when not modified by an adjective):~~
12 adjective, means general assistance or public assistance, or both.

13 (3) ~~Benefits:~~ “Benefits” means aid or commodities furnished under
14 chapter 17 of this title.

15 (4) ~~Commissioner: the commissioner for children and families~~
16 “Commissioner” means the Commissioner for Children and Families.

17 (5) ~~Department: the department for children and families~~ “Department”
18 means the Department for Children and Families.

19 (6) ~~Federal department (or federal agency):~~ “Federal department” or
20 “federal agency” means a department or agency of the United States of
21 America.

1 ~~(7) Guardian: “Guardian” means a legal guardian appointed by a probate~~
2 ~~division Probate Division of the ~~superior court~~ Superior Court or by a court in~~
3 ~~a divorce or other proceeding or action.~~

4 (8) ~~Public assistance:~~ “Public assistance” means aid provided by the
5 ~~department~~ Department under ~~Titles~~ Title IV, XVI, or XIX of the Social
6 Security Act.

7 (9) ~~Regulation:~~ “Regulation” means a rule or regulation.

8 (10) ~~Secretary:~~ “Secretary” means the ~~secretary~~ Secretary of the federal
9 ~~department of health and human services~~ Department of Health and Human
10 Services.

11 (11) ~~Social Security Act:~~ “Social Security Act” means the federal Social
12 Security Act and rules and regulations made thereunder, as amended at any
13 time.

14 (12) ~~[Deleted.]~~

15 (13) ~~[Deleted.]~~

16 (b) The laws relating to ~~the programs of the department for children and~~
17 ~~families~~ Department for Children and Families and its programs shall be
18 construed liberally to carry out the policies stated in this chapter

1 ~~Sec. 4. 33 V.S.A. § 103 is amended to read:~~

2 § 103. COMPOSITION OF DEPARTMENT

3 The ~~department for children and families~~ Department for Children and
4 Families, created ~~under section pursuant to 3 V.S.A. §§ 212 and 3084 of Title~~
5 ~~3~~, shall consist of the ~~commissioner for children and families~~ Commissioner
6 for Children and Families and all divisions, councils, boards, committees, and
7 offices within the ~~department~~ Department.

8 Sec. 5. 33 V.S.A. § 104 is amended to read:

9 § 104. FUNCTION AND POWERS OF DEPARTMENT

10 (a) The ~~department~~ Department shall administer all laws specifically
11 assigned to it for administration.

12 (b) In addition to other powers vested in it by law, the ~~department~~
13 Department may:

14 (1) Provide ~~aid required~~ for the administration of the following
15 programs of and services:

16 (A) Aid to the aged, blind, and disabled.

17 (B) ~~Aid to needy families with children~~ Reach Up financial
18 assistance and support services.

19 (C) ~~Community work and training.~~ [Deleted.]

20 (D) Federal ~~supplementary~~ Supplemental Nutrition Assistance
21 Program benefits.

1 ~~(E) General assistance.~~

2 (F) Medical assistance.

3 (G) Public assistance programs funded with state general funds or the
4 Temporary Assistance to Needy Families (TANF) block grant.

5 (2) Cooperate with the appropriate federal agencies in receiving, to the
6 extent available, federal funds in support of programs which the ~~department~~
7 Department administers.

8 (3) Submit plans and reports, make regulations, and in other respects
9 comply with the provisions of the ~~social security act~~ Social Security Act which
10 pertain to programs administered by the ~~department~~ Department.

11 (4) Receive and disburse funds which are assigned, donated, or
12 bequeathed to it for charitable purposes or for the benefit of recipients of
13 assistance ~~or~~ benefits, or social services. This subdivision shall not be
14 construed to require the Department to accept funds or trusts when the
15 Commissioner, with the approval of the Governor, considers it in the best
16 interests of the State to refuse them.

17 (5) Receive in trust and expend in accordance with the provisions of the
18 trust, funds, and property assigned, donated, devised, or bequeathed to it for
19 charitable purposes or for the benefit of recipients of assistance ~~or~~ benefits, or
20 social services. Trust funds accepted by the ~~department~~ Department shall be
21 safely invested by the ~~state treasurer~~ State Treasurer. Real property received in

1 ~~trust may, at the discretion of the commissioner Commissioner, be~~
2 ~~administered by the department of buildings and general services of the agency~~
3 ~~of administration Department of Buildings and General Services of the Agency~~
4 ~~of Administration. Neither this nor the preceding This subdivision shall not be~~
5 ~~construed to require the department Department to accept funds or trusts, when~~
6 ~~the commissioner Commissioner, with the approval of the governor Governor,~~
7 ~~considers it in the best interests of the state State to refuse them.~~

8 (6) Aid and assist in charitable work as in the judgment of the
9 ~~commissioner Commissioner will best promote the general welfare of the state~~
10 ~~State.~~

11 (7) Visit all institutions, homes, places, and establishments soliciting
12 public support and located in the state, State which are devoted to or used for
13 the care of needy persons.

14 (8) Visit all institutions, homes, places, and establishments providing
15 room, board, or care to persons receiving social services or benefits from the
16 Department.

17 (9) Supervise and control children under its care and custody and
18 provide for their care, maintenance, and education.

19 (c) The Department for Children and Families, in cooperation with the
20 Department of Corrections, shall have the responsibility to administer a
21 comprehensive program, developed by the Commission on Juvenile Justice

1 ~~established pursuant to 3 V.S.A. § 3085c, for youthful offenders and children~~
2 who commit delinquent acts, including utilization of probation services; of a
3 range of community-based and other treatment, training, and rehabilitation
4 programs; and of secure detention and treatment programs when necessary in
5 the interests of public safety, designed with the objective of preparing those
6 children to live in their communities as productive and mature adults.

7 Sec. 6. 33 V.S.A. § 105 is amended to read:

8 § 105. COMMISSIONER; APPOINTMENT, TERM, DUTIES, AND

9 POWERS

10 (a) ~~Repealed.~~

11 ~~(b)~~ The ~~commissioner~~ Commissioner may exercise the powers and perform
12 duties required for effective administration of the ~~department~~ Department, and
13 he or she shall determine the policies of the ~~department~~ Department.

14 ~~(c)~~(b) In addition to other duties imposed by law, the ~~commissioner~~
15 Commissioner shall:

16 (1) Administer the laws assigned to the ~~department~~ Department.

17 (2) Fix standards and issue regulations necessary to administer those
18 laws and for the custody and preservation of records of the ~~department~~
19 Department. Those regulations shall contain provisions restricting the use or
20 disclosure of information contained in the records to purposes directly
21 connected with the administration of the ~~department~~ Department. As used in

1 ~~this subdivision, the word "records" includes records, papers, files, and~~
2 ~~communications.~~

3 (3) Appoint all necessary assistants, prescribe their duties, and issue
4 regulations necessary to assure that the assistants shall hold merit system status
5 while in the employ of the ~~department~~ Department, unless otherwise
6 specifically provided by law.

7 ~~(4) [Repealed.]~~

8 ~~(d)(c)~~ The commissioner Commissioner, or the governor Governor,
9 whenever the federal law so provides, may cooperate with the federal
10 government in providing relief and work relief, and community work and
11 training programs in the ~~state~~ State.

12 ~~(e)(d)~~ The commissioner Commissioner, with the approval of the attorney
13 ~~general~~ Attorney General, may enter into reciprocal agreements with social and
14 child welfare agencies in other states in matters relating to social welfare,
15 children, and families.

16 (e) The Commissioner shall ensure the provision of services to children and
17 adolescents with a severe emotional disturbance in coordination with the
18 Secretary of Education and the Commissioners of Mental Health and of
19 Disabilities, Aging, and Independent Living in accordance with the provisions
20 of chapter 43 of this title.

1 ~~(f) Notwithstanding any other provision of law, the commissioner~~
2 Commissioner may delegate to any appropriate employee of the Department
3 any of the administrative duties and powers imposed on him or her by law,
4 with the exception of the duties and powers enumerated in this section. The
5 delegation of authority and responsibility shall not relieve the ~~commissioner~~
6 Commissioner of accountability for the proper administration of the
7 ~~department~~ Department.

8 (g) The Commissioner may publicly disclose findings or information about
9 any case of child abuse or neglect that has resulted in the fatality or near
10 fatality of a child, including information obtained under chapter 49 of this title,
11 unless the state's attorney or Attorney General who is investigating or
12 prosecuting any matter related to the fatality requests the Commissioner to
13 withhold disclosure, in which case the Commissioner shall not disclose any
14 information until completion of any criminal proceedings related to the fatality
15 or until the state's attorney or Attorney General consents to disclosure,
16 whichever occurs earlier.

17 Sec. 7. 33 V.S.A. § 111(b) is amended to read:

18 (b) A person shall not:

19 (1) Publish, use, disclose, or divulge any of those records for purposes
20 not directly connected with the administration of programs of the ~~department~~

1 ~~Department, or contrary to regulations issued by the commissioner~~

2 Commissioner; or

3 * * *

4 Sec. 8. REPEAL

5 33 V.S.A. § 113 (desertion and nonsupport, information from governmental
6 entities and public utilities) is repealed.

7 Sec. 9. REPEAL

8 33 V.S.A. § 115 (access to financial records of deposit accounts of
9 individuals who owe overdue child support) is repealed.

10 Sec. 10. 33 V.S.A. § 116 is added to read:

11 § 116. STATE-PLACED STUDENTS

12 To enable a school district to determine if a student is a state-placed student,
13 as defined in 16 V.S.A. § 11(a)(28), the Commissioner for Children and
14 Families shall immediately notify the superintendent of schools for the school
15 district educating the student if the parent or parents of a student under the care
16 and custody of the Commissioner move from or into that school district.

17 Sec. 11. REPEAL

18 33 V.S.A. § 132 (remedies; penalty) is repealed.

1 ~~Sec. 12. 33 V.S.A. § 141 is amended to read:~~

2 § 141. FRAUD

3 (a) A person who knowingly fails, by false statement, misrepresentation,
4 impersonation, or other fraudulent means, to disclose a material fact used in
5 ~~making a determination as to the qualifications of~~ to determine whether that
6 person is qualified to receive aid or benefits under a state or ~~federally funded~~
7 federally funded assistance program; or who knowingly fails to disclose a
8 change in circumstances in order to obtain or continue to receive ~~under a~~
9 ~~program~~ aid or benefits to which he or she is not entitled or in an amount larger
10 than that to which he or she is entitled; or who knowingly aids and abets
11 another person in the commission of any such act shall be punished as
12 provided in section 143 of this title.

13 (b) A person who knowingly uses, transfers, acquires, traffics, alters,
14 forges, or possesses; or who knowingly attempts to use, transfer, acquire,
15 traffic, alter, forge, or possess; or who knowingly aids and abets another
16 person in the use, transfer, acquisition, traffic, alteration, forgery, or possession
17 of a ~~food stamp, food stamp identification~~ Supplemental Nutrition Assistance
18 Program benefit card, authorization for the purchase of ~~food stamps~~
19 Supplemental Nutrition Assistance Program benefits, certificate of eligibility
20 for medical services, or ~~Medicaid state health care program~~ identification card
21 in a manner not authorized by law shall be punished as provided in section 143

1 ~~of this title. For the purposes of this section, the value of an authorization to~~
2 ~~purchase food stamps shall be the difference between the coupon allotment and~~
3 ~~the amount paid by the recipient for that allotment.~~

4 (c) A person who administers a state or ~~federally funded~~ federally funded
5 assistance program who fraudulently misappropriates, attempts to
6 misappropriate, or aids and abets in the misappropriation of a ~~food stamp~~
7 Supplemental Nutrition Assistance Program benefit, authorization for ~~food~~
8 ~~stamps~~ Supplemental Nutrition Assistance Program benefits, ~~food stamp a~~
9 Supplemental Nutrition Assistance Program benefit identification card,
10 certificate of eligibility for prescribed medicine, ~~Medicaid~~ state health care
11 program identification card, or assistance from any other state or
12 ~~federally funded~~ federally funded program with which he or she has been
13 entrusted or of which he or she has gained possession by virtue of his or her
14 position; or who knowingly misappropriates, attempts to misappropriate, or
15 aids or abets in the misappropriation of funds given in exchange for ~~food~~
16 ~~stamps~~ Supplemental Nutrition Assistance Program benefits shall be punished
17 as provided in section 143 of this title.

18 (d) A person who knowingly files, attempts to file, or aids and abets in the
19 filing of a claim for services to a recipient of benefits under a state or
20 ~~federally funded~~ federally funded assistance program for services which were
21 not rendered; or who knowingly files a false claim or a claim for unauthorized

1 ~~items or services under such a program; or who knowingly bills the recipient~~
2 of benefits under such a program or his or her family for an amount in excess
3 of that provided for by law or regulation; or who knowingly fails to credit the
4 ~~state~~ State or its agent for payments received from Social Security, insurance,
5 or other sources; or who in any way knowingly receives, attempts to receive,
6 or aids and abets in the receipt of unauthorized payment as provided herein
7 shall be punished as provided in section 143 of this title.

8 * * *

9 Sec. 13. 33 V.S.A. chapter 1, subchapter 6 is added to read:

10 Subchapter 6. Licensing and Registration

11 § 151. LICENSING AND REGISTRATION; VIOLATIONS

12 This subchapter shall apply to all licenses, registrations, and applications for
13 licenses and registrations which the Commissioner or the Department may
14 issue or grant, unless otherwise specifically provided.

15 (1) The Commissioner shall adopt rules governing applications for and
16 issuance, revocation, term, and renewal of licenses and registrations. In the
17 regulations, he or she may prescribe standards and conditions to be met,
18 records to be kept, and reports to be filed. Licenses and registration shall be
19 for a term of one year from issuance unless otherwise prescribed by regulation.

20 (2) Premises covered by a license or registration may be visited and
21 inspected by the Department at reasonable hours. A person who accepts a

1 ~~license or registration shall permit visits and inspections and examinations of~~
2 ~~the records he or she is required to keep.~~

3 (3) A license or registration may be revoked for cause after hearing and
4 may be suspended in situations which immediately imperil the health, safety,
5 or well-being of persons in the care of the licensee or registrant.

6 (4) Before a license is granted, the Department shall visit and inspect the
7 premises for which the license is requested and make further inquiry and
8 investigation as the Commissioner may direct. Before a family child care
9 home registration is granted, the Department shall make inquiry and
10 investigation. Inquiry and investigation may include a visit to and inspection
11 of the premises for which the registration is requested. Further inquiry and
12 investigation may be made as the Commissioner may direct.

13 (5) Whenever the Attorney General has reason to believe that a facility
14 required by the Commissioner to be licensed or registered is being operated
15 without such license or registration, the Attorney General may bring an action
16 for equitable relief in the name of the State against the operator of such facility
17 to restrain such operation. The action may be brought in the Superior Court of
18 the county in which the facility is located. The Court is authorized to grant
19 equitable relief to restrain and prevent such operation.

20 (6) Any person who violates the terms of an injunction or restraining
21 order issued under subdivision (5) of this section shall forfeit and pay to the

1 ~~State a civil penalty of not more than \$100.00 for each violation. In such~~
2 ~~cases, the Attorney General acting in the name of the State may petition for~~
3 ~~recovery of such civil penalty.~~

4 ~~(7) Whenever the Department determines that a licensed child care~~
5 ~~facility or registered family child care home has violated a health or safety~~
6 ~~rule, the facility or home shall post the Department's notice of violation in a~~
7 ~~conspicuous place in the facility or home. In the case of a serious violation, as~~
8 ~~defined by the Department by rule, the facility or home shall also notify by~~
9 ~~mail a person responsible for the welfare of each child attending that facility or~~
10 ~~home. A serious violation shall include violation of group size and staffing~~
11 ~~requirements and any violation involving a situation which immediately~~
12 ~~imperils the health, safety, or well-being of persons in the care of the licensee~~
13 ~~or registrant.~~

14 ~~§ 152. ACCESS TO RECORDS~~

15 ~~(a) The Commissioner may obtain from the Vermont Crime Information~~
16 ~~Center the record of convictions of any person to the extent the Commissioner~~
17 ~~has determined by rule that such information is necessary to regulate a facility~~
18 ~~or individual subject to regulation by the Department. The Commissioner shall~~
19 ~~first notify the person whose record is being requested.~~

20 ~~(b) The owner or operator of a facility licensed or registered by the~~
21 ~~Department may ask the Commissioner for the record of convictions and the~~

1 ~~record of substantiated reports of child abuse of a current employee or a person~~
2 ~~to whom the owner or operator has given a conditional offer of employment.~~
3 ~~The request shall be in writing and shall be accompanied by a release signed~~
4 ~~by the current or prospective employee. The owner or operator shall inform~~
5 ~~the current or prospective employee that he or she has the right to appeal the~~
6 ~~accuracy and completeness of the record. Upon receiving a request under this~~
7 ~~subsection, the Commissioner shall ask the Vermont Crime Information Center~~
8 ~~for the record of convictions of the current or prospective employee.~~

9 ~~(c) If the person has a record of convictions, the Commissioner shall~~
10 ~~provide the owner or operator with a copy of the record. If the person has a~~
11 ~~record of substantiated reports of child abuse, the Commissioner shall inform~~
12 ~~the requesting owner or operator that such record exists.~~

13 ~~(d) Information released to an owner or operator under this section shall not~~
14 ~~be released or disclosed by the owner or operator to any other person. Release~~
15 ~~or disclosure of such information by an owner or operator may result in the~~
16 ~~loss of the license or registration.~~

17 ~~(e) As used in this section:~~

18 ~~(1) "Commissioner" means the Commissioner for Children and Families~~
19 ~~or the Commissioner's designee.~~

20 ~~(2) "Employee" shall include volunteers.~~

1 ~~(3) "Substantiated reports of child abuse" means reports of child abuse~~
2 substantiated under section 4915 of this title.

3 (4) "Volunteer" means an individual who, without compensation,
4 provides services through a public or private organization.

5 Sec. 14. REPEAL

6 33 V.S.A. chapter 3 (Department for Children and Families) is repealed.

7 Sec. 15. 33 V.S.A. chapter 5 is redesignated to read:

8 CHAPTER 5. DEPARTMENT OF DISABILITIES, AGING, AND
9 INDEPENDENT LIVING PROGRAMS

10 Sec. 16. 33 V.S.A. § 502 is amended to read:

11 § 502. DEFINITIONS

12 As used in this chapter:

13 * * *

14 (7) "Older persons" ~~mean~~ means individuals who have attained the age
15 of 60 years.

16 (8) "Persons with disabilities" ~~mean~~ means individual Vermonters who
17 have functional limitations by virtue of physical, psychiatric, cognitive, or
18 psychological conditions.

19 * * *

1 ~~Sec. 17. REPEAL~~

2 ~~33 V.S.A. chapters 7 (Office of Alcohol and Drug Abuse) and 8 (alcohol~~
3 ~~and drug abuse counselors) are repealed.~~

4 Sec. 18. ~~33~~ V.S.A. § 900 is amended to read:

5 § 900. DEFINITIONS

6 Unless otherwise required by the context, the words and phrases in this
7 chapter shall be defined as follows:

8 (1) "Agency" means the ~~agency of human services~~ Agency of Human
9 Services.

10 (2) "Director" means the ~~director of rate setting~~ Director of Rate Setting.

11 (3) "Division" means the ~~division of rate setting~~ Division of Rate
12 Setting.

13 (4) "~~State-assisted~~" means a person eligible for or receiving benefits
14 ~~administered by or in coordination with the agency.~~

15 ~~(5)~~ "Provider" means any entity, excluding a hospital or a physician,
16 providing services to state-assisted persons pursuant to a contract or other form
17 of agreement with the ~~state~~ State.

18 ~~(6)(5)~~ "Secretary" means the ~~secretary of human services~~ Secretary of
19 Human Services.

20 (6) "State-assisted" means a person eligible for or receiving benefits
21 administered by or in coordination with the Agency.

1 ~~Sec. 19. 33 V.S.A. § 904(b) is amended to read:~~

2 (b) No payment shall be made to any nursing home, on account of any
3 state-assisted person, unless the nursing home is certified to participate in the
4 state/federal medical assistance program and has in effect a provider
5 agreement.

6 Sec. 20. 33 V.S.A. § 905(a) is amended to read:

7 (a) Consistent with the objectives established under section 901 of this title,
8 the ~~division~~ Division shall develop a payment system based on cost categories
9 established for each nursing home. The system shall include no fewer than the
10 following three cost categories:

11 (1) Direct care costs, which refer, at a minimum, to nursing salaries and
12 nursing assistant wages, fringe benefits, and payroll taxes associated therewith.

13 (2) Indirect costs, which refer to all operating costs not established
14 under subdivision (1) of this subsection.

15 (3) Property and related costs.

16 (4) At the discretion of the ~~director~~ Director, the cost categories referred
17 to in subdivisions ~~(1)-(3)~~ (1) through (3) of this subsection may be subdivided.

18 Facilities may also be divided into groups, based on considerations such as size
19 or other appropriate determinants within each cost category or subdivision
20 thereof.

1 ~~Sec. 21. 33 V.S.A. § 908(b) is amended to read:~~

2 (b) The ~~division~~ Division shall have the power to examine books and
3 accounts of any nursing home or other provider caring for state-assisted
4 persons, to subpoena witnesses and documents, to administer oaths to
5 witnesses, and to examine them on all matters of which the ~~division~~ Division
6 has jurisdiction.

7 Sec. 22. 33 V.S.A. § 910 is amended to read:

8 § 910. AVAILABILITY OF PAYMENT FOR NURSING HOME SERVICES

9 In addition to any other reductions required by this act, the ~~secretary~~
10 Secretary may, with 90 days' notice to the nursing home, reduce the number of
11 days of nursing home service or the number of nursing home beds for which
12 payments are available under the state/federal medical assistance program in
13 order to meet state budgetary goals, provided that the standards of care,
14 required by section 7117 of this title and by rule, ~~adopted by January 1, 1997,~~
15 are maintained.

16 Sec. 23. 33 V.S.A. § 1101 is amended to read:

17 § 1101. DEFINITIONS

18 As used in this chapter:

19 (1) "Able-to-work" means to be free of any physical, emotional, or
20 mental condition that would prevent the individual from engaging in any

1 ~~combination of the work activities, identified in subdivisions 1101(28)(A)~~

2 through (E) of this ~~title~~, section for at least 35 hours per week.

3 (2) "Able-to-work-part-time" means having a physical, emotional, or
4 mental condition that would allow the individual to engage in any combination
5 of the work activities, identified in subdivisions ~~1101~~(28)(A) through (E) of
6 this ~~title~~, section for at least 10 hours per week but would prevent the
7 individual from engaging in such activities for 35 or more hours per week.

8 * * *

9 Sec. 24. 33 V.S.A. § 1103(g) is amended to read:

10 (g) The ~~commissioner~~ Commissioner shall use the family composition
11 rules applicable to the welfare demonstration project established pursuant to
12 ~~Act No. 106 of 1994~~ 1994 Acts and Resolves No. 106 in determining
13 eligibility and benefit levels for a financial assistance grant.

14 * * *

15 Sec. 25. 33 V.S.A. § 1104 is amended to read:

16 § 1104. ABANDONMENT OR DESERTION; REPORTING

17 ~~Forthwith upon~~ Immediately upon granting assistance for the benefit of a
18 dependent child who has been abandoned or deserted by a parent, the
19 ~~commissioner~~ Commissioner shall give notice to the appropriate prosecuting
20 officer charged with the duty of enforcing laws relating to the abandonment or
21 desertion of children or minors.

1 ~~Sec. 26. 33 V.S.A. § 1107 is amended to read:~~

2 § 1107. CASE MANAGEMENT; FAMILY DEVELOPMENT PLANS;
3 COORDINATED SERVICES

4 * * *

5 (d) ~~The commissioner of education~~ Secretary of Education, with the
6 assistance and support of the ~~commissioner for children and families, the~~
7 ~~commissioner of disabilities, aging, and independent living, and the~~
8 ~~commissioner of labor~~ Commissioners for Children and Families; of
9 Disabilities, Aging, and Independent Living; and of Labor, shall develop and
10 implement comparable and reciprocally recognized literacy assessment
11 protocols that will be used for all clients seeking ~~adult basic education~~ adult
12 education and literacy services; related services of the ~~department of~~
13 ~~education, or the services of the department of disabilities, aging, and~~
14 ~~independent living, the department of labor, or the department for children and~~
15 ~~families~~ Agency of Education or the services of the Departments of
16 Disabilities, Aging, and Independent Living; of Labor; or for Children and
17 Families, when such services are being sought for the purpose of developing or
18 strengthening competencies or skills related to the clients' current or future
19 employment. Such protocols shall, to the extent practicable, utilize the same
20 terminology and apply comparable criteria, consistent with individual program
21 purposes and authorization, in determining when testing, other standardized

1 ~~measurement tools, or referrals to relevant professionals for evaluation or~~
2 diagnosis are appropriate.

3 (e) ~~The secretary~~ Secretary shall work cooperatively with public and
4 private, local, and regional entities:

5 (1) to develop subsidized jobs with employers, using the same health
6 and safety standards in effect for unsubsidized jobs;

7 (2) to develop work placements that incorporate an ~~adult basic education~~
8 adult education and literacy component into the hours of work for participants
9 who need to continue to work on their secondary education while fulfilling
10 their work requirement;

11 (3) to adopt rules which set priorities for services of benefit to the
12 people of Vermont, and which prevent displacement of previous unsubsidized
13 workers by subsidized Reach Up program participants; and

14 (4) to ensure that necessary support services are available, appropriate,
15 and within a reasonable distance, including child care, health care, and
16 transportation.

17 * * *

1 ~~Sec. 27. 33 V.S.A. § 1108 is amended to read:~~

2 § 1108. OBLIGATION TO ASSIST ELIGIBLE FAMILIES WITH
3 DEPENDENT CHILDREN

4 Except as specifically authorized herein, the ~~commissioner~~ Commissioner
5 shall not adopt any rule that would result in the termination of financial
6 assistance to a participating family, including a dependent child, on the basis of
7 an adult family member's having received TANF-funded financial assistance,
8 as an adult, for 60 or more months in his or her lifetime. This provision shall
9 not prevent the ~~commissioner~~ Commissioner from adopting rules that impose
10 limitations on ~~how many~~ the number of months that ~~families, including a~~
11 family in which a parent ~~who has received~~ obtained an ~~associate~~ associate's or
12 bachelor's degree while receiving support from the postsecondary education
13 program authorized by section 1121 of this chapter, may receive financial
14 assistance authorized by this chapter ~~in~~ during the five-year period
15 immediately following the receipt of such ~~associate~~ associate's or bachelor's
16 degree.

17 Sec. 28. 33 V.S.A. § 1113 is amended to read:

18 § 1113. WORK REQUIREMENTS

19 * * *

20 (b)(1) The work requirement shall become effective as soon as the
21 participating adult is work-ready, or upon the family's receipt of 12 cumulative

1 ~~months of financial assistance, whichever is sooner, unless at the end of the~~
2 12 cumulative-month period the participant's case manager concludes that the
3 participant is unable to meet the hours of the applicable unmodified work
4 requirement, as established in subsection (c) of this section. In such cases, the
5 case manager shall prepare a written request on behalf of the participant for an
6 extension of up to six months. The request shall identify the particular reasons
7 why the participant is unable to meet the work requirement and the remedial
8 actions and services to be provided to the recipient to enable fulfillment of the
9 requirement. The request shall be submitted to the ~~district director and the~~
10 ~~commissioner~~ Commissioner or the Commissioner's designee for approval.
11 The request shall be approved unless the participant is able to meet the work
12 requirement or a modified work requirement established in accordance with
13 section 1114 of this title.

14 * * *

15 (c) The hours of the work requirement shall be as follows:

16 * * *

17 (3) All other able-to-work participants and able-to-work-part-time
18 participants who are not subject to the work requirement established by
19 subdivision (1) of this subsection; or who are exempted from the work
20 requirement in accordance with subdivision (2) of this subsection; shall comply
21 with the following requirements:

(d)(1) A participant required to fulfill a work requirement shall accept any unsubsidized job he or she is capable of performing, even if it pays wages that are less than the financial assistance grant. In cases in which monthly wages are less than the financial assistance grant and the family is otherwise eligible, the wages shall be supplemented with a partial financial assistance grant. The ~~commissioner~~ Commissioner shall establish by rule criteria for jobs that must be accepted if offered, including the criterion that each job must pay at least minimum wage.

(2) A participating adult who had wages in the three months prior to his or her application for financial assistance that, when annualized, equal or exceed 150 percent of the federal poverty level applicable to the participating adult's family shall not be required to accept employment with annualized earnings of less than 150 percent of the federal poverty level applicable to the participating adult's family, for the three-month period after being deemed eligible for financial assistance, provided that the participant:

(e) The ~~commissioner~~ Commissioner may require a participant to participate in a job search, coordinated by the ~~commissioner~~ Commissioner, for the number of hours per week that corresponds to the participant's work requirement hours under subsection (c) of this section, or a lesser amount that

1 ~~in combination with the participant's unsubsidized employment equals the~~
2 participant's work requirement hours under subsection (c) of this section.

3 (f) Notwithstanding any other provision of this chapter, a participant's
4 hours of unpaid work activities that are not primarily education, job search, job
5 readiness ~~activities~~, or training activities shall not exceed the levels established
6 by the Fair Labor Standards Act. Adjustments required to conform with the
7 Fair Labor Standards Act shall be made pursuant to calculation standards
8 established by the ~~commissioner~~ Commissioner by rule.

9 Sec. 29. 33 V.S.A. § 1116 is amended to read:

10 § 1116. SANCTIONS

11 * * *

12 (b) Prior to the reduction in a family's financial assistance grant resulting
13 from a sanction imposed under this section, the ~~department~~ Department shall
14 provide an independent review of the participant's circumstances and the basis
15 for his or her noncompliance. The ~~district director~~ Commissioner or the
16 ~~district director's~~ Commissioner's designee shall perform the review.

17 * * *

18 (i) A family sanctioned under this section for failure to meet work or
19 family development plan requirements shall remain eligible for ~~Food Stamps~~
20 Supplemental Nutrition Assistance Program benefits and shall not, because of
21 such failure, be sanctioned under the ~~Food Stamp program~~ Supplemental

1 ~~Nutrition Assistance Program~~ for reasons of “failure to comply without good
2 cause” and “voluntary quit without good cause,” provided that such eligibility
3 and waivers of such sanctions are consistent with federal law and regulations
4 governing the ~~Food Stamp program~~ Supplemental Nutrition Assistance
5 Program.

6 Sec. 30. 33 V.S.A. § 1133(a) is amended to read:

7 (a) The ~~department~~ Department shall transfer the family to Reach Up, a
8 separate state program, or a solely state-funded program established under
9 chapter 11 of this title if, after four months of receiving support in Reach First
10 or sooner at the ~~department’s~~ Department’s discretion, a family is assessed as
11 needing ongoing financial assistance and the family is financially eligible for
12 Reach Up, a separate state program, or a solely state-funded program
13 established under chapter 11 of this title, unless the family chooses not to
14 participate.

15 Sec. 31. 33 V.S.A. § 1134(a) is amended to read:

16 (a) On or before January 31 of each year, the ~~commissioner~~ Commissioner
17 shall design and implement procedures to evaluate, measure, and report to the
18 ~~governor and the general assembly~~ the department’s Governor and the General
19 Assembly the Department’s progress in implementing Reach First, Reach Up,
20 and Reach Ahead and achieving the goals of the programs provided for in
21 sections 1002, 1102, and 1202 of this title. The report shall include:

1 ~~(1) The the types of barriers facing Reach Up families seeking economic~~
2 self-sufficiency, the number of families with each type of barrier, the
3 frequency of occurrence of each type of barrier, and how support services and
4 incentives assist in overcoming barriers;

5 ~~(2) Documentation documentation of participant outcomes, including~~
6 specific information relating to the number of persons employed, by
7 occupation, industry, and wage; the types of subsidized and unsubsidized jobs
8 secured by participants; any available information about outcomes for children
9 who have participated in the programs, including objective indicators of
10 improved conditions; the number of participating families involved in training
11 programs; and whether the support services and incentives assist in keeping
12 families employed; and

13 ~~(3) Data data about the ~~food stamp~~ Supplemental Nutrition Assistance~~
14 Program participation of households who have left the programs during the last
15 fiscal year, including the number of households, adults, and children
16 participating in the ~~food stamp program~~ Supplemental Nutrition Assistance
17 Program three months after leaving the applicable program, broken down by
18 reason for termination or leaving, and the ~~department's~~ Department's plan to
19 identify and assist eligible households to apply for ~~food stamps~~ Supplemental
20 Nutrition Assistance Program benefits.

1 ~~Sec. 32. 33 V.S.A. § 1201(9) is amended to read:~~

2 (9) "Food assistance" means a monthly benefit to supplement the
3 family's ~~food stamp benefit~~ Supplemental Nutrition Assistance Program
4 benefits as determined under section 1204 of this chapter.

5 Sec. 33. 33 V.S.A. § 1204(b) is amended to read:

6 (b) Food assistance may be used only to purchase eligible food items as
7 defined in the ~~food stamp~~ Supplemental Nutrition Assistance Program federal
8 rules and shall be disregarded as income for the purposes of determining ~~food~~
9 ~~stamp~~ Supplemental Nutrition Assistance Program eligibility and the amount
10 of the ~~food stamp~~ Supplemental Nutrition Assistance Program benefits.

11 Sec. 34. 33 V.S.A. § 1303 is amended to read:

12 § 1303. STATE AID TO THE DISABLED

13 (a) State aid to the disabled shall be granted to a person who meets the
14 eligibility requirements of section 1301 of this title and who in addition:

15 (1) ~~Is~~ is permanently and totally disabled as defined in Title XVI of the
16 Social Security Act, as amended, ~~effective January 1, 1974;~~ and

17 (2) ~~Is~~ is not, at the date of receiving aid, an inmate of any public
18 institution.

19 (b) An individual is also considered disabled for purposes of this chapter if
20 he or she was disabled as defined under this chapter and the regulations in
21 effect under this chapter on December 31, 1973 and received aid under this

1 ~~chapter for December, 1973, so long as he or she has been, since that time,~~
2 continuously disabled.

3 Sec. 35. 33 V.S.A. § 1304 is amended to read:

4 § 1304. STATE AID TO THE BLIND

5 (a) State aid to the blind shall be granted to a person who meets the
6 eligibility requirements of section 1301 of this title and in addition:

7 (1) ~~Is~~ is blind as defined in Title XVI of the Social Security Act, as
8 amended, ~~effective January 1, 1974;~~ and

9 (2) ~~Is~~ is not, at the date of receiving aid, an inmate of any public
10 institution.

11 (b) An individual is also considered blind for purposes of this chapter if he
12 or she was blind as defined under this chapter and the regulations in effect
13 under this chapter on December 31, 1973 and received aid under this chapter
14 for December, 1973, so long as he or she has been, since that time,
15 continuously blind.

16 Sec. 36. 33 V.S.A. § 1701 is amended to read:

17 § 1701. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

18 (a) The ~~state~~ State of Vermont may participate in the federal ~~supplemental~~
19 ~~nutrition assistance program~~ Supplemental Nutrition Assistance Program
20 which is provided for under ~~Public Law 88-525, also known as the Food Stamp~~
21 ~~and Nutrition Act of 1964, as amended~~ 7 U.S.C. chapter 51. The

1 ~~commissioner Commissioner may adopt, and from time to time amend, or~~
2 ~~repeal, regulations rules governing the operation of the ~~program~~ Program in the~~
3 ~~state State.~~

4 * * *

5 Sec. 37. 33 V.S.A. § 1900 is added to read:

6 § 1900. DEFINITIONS

7 As used in this subchapter, unless otherwise indicated:

8 (1) “Agency” means the Agency of Human Services.

9 (2) “Commissioner” means the Commissioner of Vermont Health

10 Access.

11 (3) “Department” means the Department of Vermont Health Access.

12 (4) “Insurer” means any insurance company, prepaid health care
13 delivery plan, self-funded employee benefit plan, pension fund, hospital or
14 medical service corporation, managed care organization, pharmacy benefit
15 manager, prescription drug plan, retirement system, or similar entity that is
16 under an obligation to make payments for medical services as a result of an
17 injury, illness, or disease suffered by an individual.

18 (5) “Legally liable representative” means a parent or person with an
19 obligation of support to a recipient whether by contract, court order, or statute.

20 (6) “Provider” means any person who has entered into an agreement
21 with the State to provide any medical service.

1 ~~(7) "Recipient" means any person or group of persons who receive~~
2 ~~Medicaid.~~

3 (8) "Secretary" means the Secretary of Human Services.

4 (9) "Third party" means a person having an obligation to pay all or any
5 portion of the medical expense incurred by a recipient at the time the medical
6 service was provided. The obligation is not discharged by virtue of being
7 undiscovered or undeveloped at the time a Medicaid claim is paid. Third
8 parties include:

9 (A) Medicare;

10 (B) Health insurance, including health and accident but not that
11 portion specifically designated for "income protection" which has been
12 considered in determining recipient eligibility to participate in the Medicaid
13 program;

14 (C) Medical coverage provided in conjunction with other benefit or
15 compensation programs, including military and veteran programs or workers'
16 compensation;

17 (D) Liability for medical expenses as agreed to or ordered in
18 negligence suits, support settlements, or trust funds; and

19 (E) Managed care organizations, pharmacy benefit managers,
20 self-insured plans, and other entities that are, by statute, contract, or agreement,
21 legally responsible for the payment of a claim for a health care item or service.

1 ~~Sec. 38. 33 V.S.A. § 1901(e)(1) is amended to read:~~

2 ~~(e)(1) The department for children and families and the department of~~
3 ~~Vermont health access~~ Department for Children and Families and the
4 Department of Vermont Health Access shall monitor ~~and~~ evaluate, and report
5 quarterly ~~beginning July 1, 2006~~ on the disenrollment in each of the Medicaid
6 or Medicaid waiver programs subject to premiums, including:

7 * * *

8 Sec. 39. 33 V.S.A. § 1901b is amended to read:

9 § 1901b. PHARMACY PROGRAM ENROLLMENT

10 (a) ~~The department of Vermont health access and the department for~~
11 ~~children and families~~ Department of Vermont Health Access and the
12 Department for Children and Families shall monitor actual caseloads, ~~revenue~~
13 ~~and expenditures~~, anticipated caseloads, revenue and expenditures, and actual
14 and anticipated savings from implementation of the preferred drug list,
15 supplemental rebates, and other cost containment activities in each state
16 pharmaceutical assistance program, including VPharm and VermontRx. The
17 ~~departments~~ Departments shall allocate supplemental rebate savings to each
18 program proportionate to expenditures in each program. During the second
19 week of each month, the ~~department of Vermont health access~~ Department of
20 Vermont Health Access shall report such actual and anticipated caseload,
21 revenue, expenditure, and savings information to the ~~joint fiscal committee~~

1 ~~Joint Fiscal Committee and to the health care oversight committee Health Care~~
2 ~~Oversight Committee.~~

3 * * *

4 (c)(1) If at any time after enrollment ceases under subsection (b) of this
5 section expenditures for VermontRx, including expenditures attributable to
6 renewed enrollment, are anticipated, by reason of increased federal financial
7 participation or any other reason, to be equal to or less than the aggregate
8 amount of state funds expressly appropriated for such state pharmaceutical
9 assistance programs during any fiscal year, the ~~department of Vermont health~~
10 ~~access~~ Department of Vermont Health Access shall recommend to the ~~joint~~
11 ~~fiscal committee~~ Joint Fiscal Committee and notify the ~~health care oversight~~
12 ~~committee~~ Health Care Oversight Committee of a plan to renew enrollment in
13 VermontRx, with priority given to individuals with incomes more than 175
14 percent and less than 225 percent of the federal poverty level, if adequate funds
15 are anticipated to be available for each program for the remainder of the fiscal
16 year.

17 * * *

18 (d) As used in this section:

19 * * *

20 (2) “VermontRx” means the program established in section 2074 of this
21 title.

1 ~~(3) “VHAP” or “Vermont health access plan” “Vermont Health Access~~
2 ~~Plan”~~ means the programs of health care assistance authorized by federal
3 waivers under Section 1115 of the Social Security Act, by ~~No. 14 of the Acts~~
4 ~~of 1995~~ 1995 Acts and Resolves No. 14, and by further acts of the General
5 Assembly.

6 ~~(3)~~(4) “VHAP-Pharmacy” or “VHAP-Rx” means the VHAP program of
7 state pharmaceutical assistance for elderly and disabled Vermonters with
8 income up to and including 150 percent of the federal poverty level
9 (hereinafter “FPL”).

10 ~~(4)~~(5) “VScript” means the Section 1115 waiver program of state
11 pharmaceutical assistance for elderly and disabled Vermonters with income
12 over 150 and less than or equal to 175 percent of FPL, and administered under
13 ~~subchapter 4 of chapter 19, subchapter 4~~ of this title.

14 ~~(5)~~(6) “VScript-Expanded” means the state-funded program of
15 pharmaceutical assistance for elderly and disabled Vermonters with income
16 over 175 and less than or equal to 225 percent of FPL, and administered under
17 ~~subchapter 4 of chapter 19, subchapter 4~~ of this title.

18 (7) “VPharm” means the program established in section 2073 of this
19 title.

1 ~~Sec. 40. 33 V.S.A. § 1901e is amended to read:~~

2 § 1901e. GLOBAL COMMITMENT FUND

3 * * *

4 (b) The monies in the fund shall be disbursed as allowed by appropriation
5 of the ~~general assembly~~ General Assembly, and shall be disbursed by the
6 ~~treasurer~~ Treasurer on warrants issued by the ~~commissioner of finance and~~
7 ~~management~~ Commissioner of Finance and Management, when authorized by
8 the ~~commissioner of Vermont health access~~ Commissioner of Vermont Health
9 Access and approved by the ~~commissioner of finance and management~~
10 Commissioner of Finance and Management consistent with the
11 interdepartmental agreements between the managed care organization within
12 the ~~department of Vermont health access~~ Department of Vermont Health
13 Access and departments delivering eligible services under the waiver. The
14 ~~department of Vermont health access~~ Department of Vermont Health Access
15 may not modify an appropriation through an interdepartmental agreement or
16 any other mechanism. A department or agency authorized to spend monies
17 from this fund under an interdepartmental agreement may spend monies
18 appropriated as a base Medicaid expense for an allowable managed care
19 organization investment under ~~Term and Condition 57~~ the terms and
20 conditions of the Global Commitment for Health Medicaid Section 1115

~~waiver only after receiving approval from the agency of human services~~

Agency of Human Services.

(c) At the close of the fiscal year, the ~~agency~~ Agency shall provide a detailed report to the ~~joint fiscal committee~~ Joint Fiscal Committee which describes the managed care organization's investments under ~~Term and Condition 57~~ the terms and conditions of the Global Commitment for Health Medicaid Section 1115 waiver, including the amount of the investment and the agency or departments authorized to make the investment.

Sec. 41. REPEAL

33 V.S.A. § 1904 (definitions) is repealed.

Sec. 42. 33 V.S.A. § 1906a is amended to read:

§ 1906a. RECOVERY AGAINST ESTATE; HOMESTEAD EXEMPTIONS

No recovery of medical expenses shall be made under this subchapter against a homestead; provided that the homestead would pass to one or more lineal heirs or siblings of the decedent who either have income below 300 percent of the federal poverty level or who have contributed significantly, monetarily or otherwise, to the decedent so as to allow the decedent to delay or avoid nursing home placement. ~~This section shall take effect when the amended state plan is deemed approved by the Health Care Financing Administration (HCFA) pursuant to 42 C.F.R. § 430.16. If such approval is received after June 30, 1999 the exemption shall be retroactive and apply to all~~

1 ~~probate estates opened after June 30, 1999. If the agency of human services~~
2 ~~does not receive approval of the state plan amendment, it shall exhaust all~~
3 ~~administrative appeals and seek approval of another state plan amendment at~~
4 ~~the maximum homestead value exemption the health care financing~~
5 ~~administration (HCFA) will allow. If a maximum homestead value exemption~~
6 ~~is approved by HCFA allowed by federal law, then any recoveries due HCFA~~
7 ~~to the U.S. Department of Health and Human Services on homesteads valued~~
8 ~~between such maximum and \$125,000.00 shall be paid through state general~~
9 ~~funds provided the caregiving or poverty standards set forth above in this~~
10 ~~section are also met and the probate estate was opened after June 30, 2000.~~

11 Sec. 43. 33 V.S.A. § 1907 is amended to read:

12 § 1907. SUBROGATION

13 To the extent that payment for covered expenses has been made under the
14 ~~state~~ Medicaid program or through any state agency administering health
15 benefits or a health benefit plan for which Medicaid is a source of funding for
16 health care items or services furnished to an individual, in any case where a
17 third party has a legal liability to make payments, the ~~state~~ State is considered
18 to have acquired the rights of the individual to payment by any other party for
19 those health care items or services. An insurer shall accept the agency's right
20 to recovery and the assignment to the agency of any right of a person to

1 ~~payment from the third party for medical services for which the agency has~~
2 made payment under this chapter.

3 Sec. 44. 33 V.S.A. § 1921(a) is amended to read:

4 (a) At the date specified in 32 V.S.A. § 7785 or 7813, for monthly reports
5 from wholesale dealers or distributors, or at such date and frequency as the
6 ~~commissioner~~ Commissioner may require for other stamping agents, which
7 will be at least quarterly, each stamping agent shall submit such information as
8 the ~~commissioner~~ Commissioner requires to facilitate compliance with
9 subchapter 1A of this chapter and this subchapter, including, ~~but not limited to,~~
10 a list by brand family of the total number of cigarettes, or, in the case of
11 roll-your-own tobacco, the equivalent stick count, as determined pursuant to
12 the formula set forth in subchapter 1A of this chapter, for which the stamping
13 agent affixed stamps during the reporting period or otherwise paid the tax due
14 for such cigarettes. Stamping agents shall maintain, and make available to the
15 ~~commissioner~~ Commissioner, all documentation and other information relied
16 upon in reporting to the ~~commissioner~~ Commissioner for a period of six years.

17 Sec. 45. 33 V.S.A. § 1951 is amended to read:

18 § 1951. DEFINITIONS

19 As used in this subchapter:

20 (1) "Assessment" means a tax levied on a health care provider pursuant
21 to this chapter.

1 ~~(2) "Core home health care services" means those medically necessary~~
2 skilled nursing, home health aide, therapeutic, and personal care attendant
3 services, provided exclusively in the home by home health agencies. Core
4 home health services do not include private duty nursing, hospice, homemaker
5 or physician services, or services provided under early periodic screening,
6 diagnosis, and treatment (EPSDT), traumatic brain injury (TBI), high
7 technology programs, or services provided by a home for the terminally ill as
8 defined in subdivision ~~7102(10)~~ 7102(3) of this title.

9 * * *

10 Sec. 46. 33 V.S.A. § 1973(f)(3)(C) is amended to read:

11 (f) ~~For purposes of~~ As used in this section, "uninsured" means:

12 * * *

13 (3) An individual who lost private insurance or employer-sponsored
14 coverage during the prior 12 months for any of the following reasons:

15 * * *

16 (C)~~(4)~~ The individual lost health insurance as a result of domestic
17 violence. The individual shall provide the ~~agency of human services~~ Agency
18 of Human Services with satisfactory documentation of the domestic violence.
19 The documentation may include a sworn statement from the individual
20 attesting to the abuse, law enforcement or court records, or other
21 documentation from an attorney or legal advisor, member of the clergy, or

1 ~~health care provider, as defined in section 18 V.S.A. § 9402 of Title 18.~~

2 Information relating to the domestic violence, including the individual's
3 statement and corroborating evidence, provided to the ~~agency~~ Agency shall not
4 be disclosed by the ~~agency~~ Agency unless the individual has signed a consent
5 to disclose form. In the event the ~~agency~~ Agency is legally required to release
6 this information without consent of the individual, the ~~agency~~ Agency shall
7 notify the individual at the time the notice or request for release of information
8 is received by the ~~agency~~ Agency and prior to releasing the requested
9 information.

10 ~~(ii) Subdivision (i) of this subdivision (C) shall take effect upon~~
11 ~~issuance by the Centers for Medicare and Medicaid Services of approval of an~~
12 ~~amendment to the waiver set forth in subsection (a) of this section allowing for~~
13 ~~a domestic violence exception to the VHAP waiting period.~~

14 Sec. 47. 33 V.S.A. § 1974 is amended to read:

15 § 1974. EMPLOYER-SPONSORED INSURANCE PREMIUM
16 ASSISTANCE

17 * * *

18 (c) Uninsured individuals; premium assistance.

19 (1) ~~For the purposes of~~ As used in this subsection:

20 * * *

1 ~~(B) "Uninsured" means an individual who does not qualify for~~
2 Medicare, Medicaid, the Vermont ~~health access plan~~ Health Access Plan, or
3 Dr. Dynasaur and had no private insurance or employer-sponsored coverage
4 that includes both hospital and physician services within 12 months prior to the
5 month of application, or lost private insurance or employer-sponsored
6 coverage during the prior 12 months for the following reasons:

7 * * *

8 (iii)~~(i)~~ The individual lost health insurance as a result of domestic
9 violence. The individual shall provide the ~~agency of human services~~ Agency
10 of Human Services with satisfactory documentation of the domestic violence.
11 The documentation may include a sworn statement from the individual
12 attesting to the abuse, law enforcement or court records, or other
13 documentation from an attorney or legal advisor, member of the clergy, or
14 health care provider, as defined in ~~section 18 V.S.A. § 9402 of Title 18.~~
15 Information relating to the domestic violence, including the individual's
16 statement and corroborating evidence, provided to the ~~agency~~ Agency shall not
17 be disclosed by the ~~agency~~ Agency unless the individual has signed a consent
18 to disclose form. In the event the ~~agency~~ Agency is legally required to release
19 this information without consent of the individual, the ~~agency~~ Agency shall
20 notify the individual at the time the notice or request for release of information

1 ~~is received by the agency Agency and prior to releasing the requested~~
2 ~~information.~~

3 ~~(II) Subdivision (I) of this subdivision (B)(iii) shall take effect~~
4 ~~upon issuance by the Centers for Medicare and Medicaid Services of approval~~
5 ~~of an amendment to the waiver set forth in subsection (f) of this section~~
6 ~~allowing for a domestic violence exception to the premium assistance program~~
7 ~~waiting period.~~

8 * * *

9 ~~(g)(1) Of the amount appropriated in No. 215 of the Act of the 2005 Adj.~~
10 ~~Sess. (2006) for the employer-sponsored insurance premium assistance~~
11 ~~program established by this section, no more than \$250,000.00 may be~~
12 ~~expended for start-up and initial administrative expenses until the report as~~
13 ~~required by subdivision (2) of this subsection has been received and approved.~~

14 ~~(2) No additional amounts appropriated in No. 215 of the Act of the~~
15 ~~2005 Adj. Sess. (2006) for the employer-sponsored premium assistance~~
16 ~~program may be made after November 15, 2006 without approval of a majority~~
17 ~~of the combined membership of the joint fiscal committee and the health~~
18 ~~access oversight committee at a joint meeting upon receipt of a report from the~~
19 ~~agency, which must include the following:~~

20 ~~(A) a plan for the additional expenditures;~~

1 ~~(B) a survey to determine whether and how many individuals~~

2 ~~currently enrolled in VHAP, including those eligible as caretakers, are~~

3 ~~potentially eligible for employer-sponsored premium assistance under this~~

4 ~~section;~~

5 ~~(C) the sliding scale premium and cost-sharing assistance amounts~~

6 ~~provided under the premium assistance program to individuals;~~

7 ~~(D) a description and estimate of benefits offered by the Vermont~~

8 ~~health access plan that are likely to be provided as supplemental benefits for~~

9 ~~the employer-sponsored premium assistance program enrollees;~~

10 ~~(E) a plan for covering dependent children through the premium~~

11 ~~assistance program; and~~

12 ~~(F) the anticipated budgetary impact of an employer-sponsored~~

13 ~~insurance premium assistance program for fiscal year 2008, including savings~~

14 ~~attributable to enrolling current VHAP enrollees in the premium assistance~~

15 ~~program established under this section, the start-up and administrative costs of~~

16 ~~the program, and the cost of providing the subsidy to these enrollees.~~

17 ~~(h)(g) The agency Agency shall report monthly to the joint fiscal~~

18 ~~committee Joint Fiscal Committee and the health access oversight committee~~

19 ~~Health Care Oversight Committee on the number of individuals enrolled in the~~

20 ~~premium assistance program, the income levels of the individuals, a~~

21 ~~description of the range and types of employer-sponsored plans that have been~~

1 ~~approved, the percentage of premium and cost sharing amounts paid by~~
2 employers whose employees participate in the premium assistance program,
3 and the net savings or cost of the program.

4 ~~(+)(h)~~ The ~~health access oversight committee~~ Health Care Oversight
5 Committee shall monitor the development, implementation, and ongoing
6 operation of the employer-sponsored premium assistance program under this
7 section.

8 ~~(+)(i)~~ The premium contributions for individuals shall be as follows:

9 (1) Monthly premiums for each individual who is eligible for premium
10 assistance under subsection (b) of this section shall be the same as charged in
11 the Vermont ~~health access plan~~ Health Access Plan.

12 (2) Monthly premiums for each individual who is not eligible for the
13 Vermont ~~health access plan~~ Health Access Plan shall be the same as the
14 premiums established in subsections ~~(b) and (c)~~ (b) and (c) of section 1984
15 this title.

16 Sec. 48. 33 V.S.A. § 1982(2) is amended to read:

17 (2) "Uninsured" means an individual who does not qualify for Medicare,
18 Medicaid, the Vermont ~~health access plan~~ Health Access Plan, or Dr. Dynasaur
19 and had no private insurance or employer-sponsored coverage that includes
20 both hospital and physician services within 12 months prior to the month of

1 ~~application, or who lost private insurance or employer sponsored coverage~~

2 during the prior 12 months for the following reasons:

3 * * *

4 (C)(i) The individual lost health insurance as a result of domestic
5 violence. The individual shall provide the ~~agency of human services~~ Agency
6 of Human Services with satisfactory documentation of the domestic violence.
7 The documentation may include a sworn statement from the individual
8 attesting to the abuse, law enforcement or court records, or other
9 documentation from an attorney or legal advisor, member of the clergy, or
10 health care provider, as defined in ~~section 18 V.S.A. § 9402 of Title 18.~~
11 Information relating to the domestic violence, including the individual's
12 statement and corroborating evidence, provided to the ~~agency~~ Agency shall not
13 be disclosed by the ~~agency~~ Agency unless the individual has signed a consent
14 to disclose form. In the event the ~~agency~~ Agency is legally required to release
15 this information without consent of the individual, the ~~agency~~ Agency shall
16 notify the individual at the time the notice or request for release of information
17 is received by the ~~agency~~ Agency and prior to releasing the requested
18 information.

19 ~~(ii) Subdivision (i) of this subdivision (C) shall take effect upon~~
20 ~~issuance by the Centers for Medicare and Medicaid Services of approval of an~~
21 ~~amendment to the Global Commitment for Health Medicaid Section 1115~~

1 ~~Waiver allowing for a domestic violence exception to the Catamount Health~~
2 ~~premium assistance waiting period.~~

3 Sec. 49. 33 V.S.A. § 1983(a) is amended to read:

4 (a)(1) Except as provided in subdivisions (3), (4), and (5) of this
5 subsection, an individual shall be eligible for Catamount Health assistance if
6 the individual is an uninsured Vermont resident without access to an approved
7 employer-sponsored insurance plan under section 1974 of this title.

8 (2) An individual who has access to an employer-sponsored insurance
9 shall be eligible for assistance under this subchapter only if the individual does
10 not have employer-sponsored insurance approved for premium assistance
11 under section 1974 of this title or if it is more cost-effective to the ~~state~~ State
12 for the individual to purchase Catamount Health with the assistance under this
13 subchapter than for the ~~state~~ State to provide premium assistance under section
14 1974 of this title. In addition, an individual may receive assistance under this
15 subchapter temporarily until the individual is able to enroll in an approved
16 employer-sponsored plan and receive premium assistance under section 1974
17 of this title. Decisions regarding plan approval and cost-effectiveness are
18 matters fully within the ~~agency's~~ Agency's discretion. On appeal pursuant to
19 ~~section 3 V.S.A. § 3091 of Title 3,~~ the human services board Human Services
20 Board may overturn the ~~agency's~~ Agency's decision only if it is arbitrary or
21 unreasonable.

1 ~~(3) An individual shall not be eligible for Catamount Health assistance if~~
2 the individual is of the age of majority and is claimed on a tax return as a
3 dependent of a resident of another state.

4 (4) An individual who is or becomes eligible for Medicare shall not be
5 eligible for premium assistance under this subchapter.

6 (5) Notwithstanding any other provision of law, when an individual is
7 enrolled in Catamount Health solely under the high deductible standard
8 outlined in ~~subdivision 8~~ V.S.A. § 4080f(a)(9) of Title 8, the individual shall
9 not be eligible for premium assistance for the 12-month period following the
10 date of enrollment in Catamount Health.

11 Sec. 50. 33 V.S.A. § 1998(f) and (g) are amended to read:

12 (f)(1) ~~The drug utilization review board~~ Drug Utilization Review Board
13 shall make recommendations to the ~~commissioner~~ Commissioner for the
14 adoption of the preferred drug list. ~~The board's~~ Board's recommendations
15 shall be based upon evidence-based considerations of clinical efficacy, adverse
16 side effects, safety, appropriate clinical trials, and cost-effectiveness.

17 "Evidence-based" shall have the same meaning as in ~~18 V.S.A. § 4622~~ 18
18 V.S.A. § 4621. The commissioner shall provide the board with evidence-based
19 information about clinical efficacy, adverse side effects, safety, and
20 appropriate clinical trials and shall provide information about cost-
21 effectiveness of available drugs in the same therapeutic class.

1 ~~(2) The board Board shall meet at least quarterly. The board Board shall~~
2 ~~comply with the requirements of 1 V.S.A. chapter 5, subchapter 2 (open~~
3 ~~meetings Open Meeting Law) and 1 V.S.A. chapter 5, subchapter 3 (open~~
4 ~~records Public Records Act), except that the board Board may go into~~
5 ~~executive session to discuss drug alternatives and receive information on the~~
6 ~~relative price, net of any rebates, of a drug under discussion and the drug price~~
7 ~~in comparison to the prices, net of any rebates, of alternative drugs available in~~
8 ~~the same class to determine cost-effectiveness, and in order to comply with~~
9 ~~subsection 2002(c) of this title to consider information relating to a~~
10 ~~pharmaceutical rebate or to supplemental rebate agreements, which ~~is~~ are~~
11 ~~protected from disclosure by federal law or the terms and conditions required~~
12 ~~by the Centers for Medicare and Medicaid Services as a condition of rebate~~
13 ~~authorization under the Medicaid program.~~

14 * * *

15 (g) The ~~department~~ Department shall seek assistance from entities
16 conducting independent research into the effectiveness of prescription drugs to
17 provide technical and clinical support in the development and the
18 administration of the preferred drug list and the evidence-based education
19 program established in 18 V.S.A. chapter 91, subchapter 2.

1 ~~Sec. 51. 33 V.S.A. § 1999(e)(1) is amended to read:~~

2 (e)(1) The prior authorization process shall be designed to minimize
3 administrative burdens on prescribers, pharmacists, and consumers. The
4 provisions of this section shall apply to the ~~program's~~ Program's prior
5 authorization process, ~~except to the extent that different prior authorization~~
6 ~~rules are established in section 2004 of this title.~~

7 Sec. 52. 33 V.S.A. § 2003 is amended to read:

8 § 2003. PHARMACY DISCOUNT PLANS

9 * * *

10 (c) As used in this section:

11 * * *

12 (5) "Labeler" means an entity or person that receives prescription drugs
13 from a manufacturer or wholesaler and repackages those drugs for later retail
14 sale and that has a labeler code from the federal Food and Drug Administration
15 under ~~21 Code of Federal Regulations, 207.20 (1999)~~ 21 C.F.R. § 207.20.

16 (6) "Participating retail pharmacy" means a retail pharmacy located in
17 this ~~state~~ State or another business licensed to dispense prescription drugs in
18 this ~~state~~ State that participates in the program according to rules established
19 by the ~~department~~ Department and provides discounted prices to eligible
20 beneficiaries of the program.

1 ~~(7) "Rebate amount" means the rebate negotiated by the director~~
2 ~~Director and required from a drug manufacturer or labeler under this section.~~
3 ~~In determining the appropriate rebate, the director Director shall:~~
4 ~~(A) take into consideration the rebate calculated under the Medicaid~~
5 ~~Rebate Program under section 1396r-8 of Title 42 of the United States Code~~
6 ~~42 U.S.C. § 1396r-8, the average wholesale price of prescription drugs, and~~
7 ~~any other information on prescription drug prices and price discounts;~~
8 ~~(B) use his or her best efforts to obtain an initial rebate amount equal~~
9 ~~to or greater than the rebate calculated under the Medicaid program under~~
10 ~~section 1396r-8 of Title 42 of the United States Code 42 U.S.C. § 1396r-8; and~~
11 ~~(C) use his or her best efforts to obtain an amount equal to or greater~~
12 ~~than the amount of any discount, rebate, or price reduction for prescription~~
13 ~~drugs provided to the federal government.~~
14 (8) "Secondary discounted cost" means, under the Healthy Vermonters
15 program, the price of the drug based on the Medicaid fee schedule, less
16 payment by the ~~state~~ State of at least two percent of the Medicaid rate, less any
17 rebate amount negotiated by the ~~director~~ Director and paid for out of the
18 Healthy Vermonters dedicated fund established under subsection ~~(j)~~(h) of this
19 section and, under the Healthy Vermonters Plus program, the average
20 wholesale price of the drug, less payment by the ~~state~~ State of at least two
21 percent of the Medicaid rate, less any rebate amount negotiated by the ~~director~~

1 ~~Director and paid for out of the Healthy Vermonters dedicated fund established~~
2 under subsection ~~(j)~~(h) of this section.

3 (9) "Without adequate coverage" includes beneficiaries with no
4 coverage for prescription drugs or certain types of prescription drugs; and
5 beneficiaries whose annual maximum coverage limit under their health benefit
6 plan has been reached.

7 * * *

8 (f) The names of drug manufacturers and labelers who do and do not enter
9 into rebate agreements under pharmacy discount plans are public information.
10 The ~~department~~ Department of Vermont ~~health access~~ Health Access shall
11 release this information to health care providers and the public on a regular
12 basis and shall publicize participation by manufacturers and labelers. The
13 ~~department~~ Department shall impose prior authorization requirements in the
14 Medicaid program, as permitted by law, to the extent the ~~department~~
15 Department determines it is appropriate to do so in order to encourage
16 manufacturer and labeler participation in the pharmacy discount plans and so
17 long as the additional prior authorization requirements remain consistent with
18 the goals of the Medicaid program and the requirements of Title XIX of the
19 ~~federal~~ Social Security Act.

20 * * *

1 ~~Sec. 53. DELETED~~

2 Sec. 54. 33 V.S.A. § 2071 is amended to read:

3 § 2071. DEFINITIONS

4 ~~For purposes of~~ As used in this subchapter:

5 (1) "Individual with disabilities" means an individual who is under age
6 65 and is entitled, under the ~~federal~~ Social Security Act, to disability insurance
7 benefits or is eligible for Medicare.

8 (2) "Maintenance drug" means a drug approved by the ~~FDA~~ federal
9 Food and Drug Administration for continuous use and prescribed to treat a
10 chronic condition for a prolonged period of time of 30 days or longer and
11 includes insulin, an insulin syringe, and an insulin needle.

12 (3) "Medicare ~~part~~ Part D" means the prescription drug program
13 established under the Medicare Prescription Drug, Improvement and
14 Modernization Act of 2003, P.L. 108-173, including the prescription drug
15 plans offered pursuant to the act.

16 * * *

17 Sec. 55. 33 V.S.A. § 2101 is amended to read:

18 § 2101. DEFINITIONS

19 Unless otherwise expressly provided, the words and phrases in this chapter
20 mean:

1 ~~(1) "District welfare director" means an employee of the agency of~~
2 ~~human services so designated by the secretary. "Commissioner" means the~~
3 ~~Commissioner for Children and Families.~~

4 (2) "Family" means persons whom the recipient of general assistance is
5 required by law to support.

6 (3) "Found" means discovered, come upon, chanced upon, or met with
7 by accident.

8 (4) "General assistance" means financial aid to provide the necessities
9 of life, including food, clothing, shelter, fuel, electricity, medical care, and
10 other items as the ~~commissioner~~ Commissioner may prescribe by regulation
11 when a need is found to exist and the applicant is otherwise found eligible.

12 * * *

13 Sec. 56. 33 V.S.A. § 2104 is amended to read:

14 § 2104. APPLICATION OR INFORMATION

15 (a) A person may apply for general assistance to ~~the nearest available town~~
16 ~~service officer or district welfare director in the manner required~~ person or
17 persons designated for that purpose by the ~~commissioner~~ Commissioner.

18 (b) When a ~~town service officer or district welfare director~~ person
19 designated by the Commissioner pursuant to subsection (a) of this section
20 receives an application for general assistance or is informed that a person is in
21 need of general assistance, he or she shall investigate and make a

1 ~~determination as to the applicant's eligibility for general assistance, and~~
2 provide under regulations of the ~~department~~ Department emergency assistance
3 as may be required. ~~The town service officer shall promptly notify the district~~
4 ~~welfare director of all determinations which he or she makes as to an~~
5 ~~applicant's eligibility.~~

6 Sec. 57. 33 V.S.A. § 2107(a) is amended to read:

7 (a) When the ~~town service officer or district welfare director or~~
8 Commissioner or a person designated by the commissioner Commissioner
9 pursuant to section 2104 of this title has reason to believe that an applicant for
10 or recipient of general assistance came into the ~~state~~ State for the purpose of
11 receiving general assistance ~~they,~~ he or she may find the applicant or recipient
12 ineligible for general assistance.

13 Sec. 58. 33 V.S.A. § 2109(b) is amended to read:

14 (b) Except as provided in subsection (c) of this section, in the case of a
15 hospital, the notice required in subsection (a) of this section shall be
16 supplemented, as soon as reasonably possible, with a plan or proposed method
17 of collecting from the person for relief and care, and other pertinent
18 information requested by the ~~department~~ Department. In the case of a person,
19 after giving notice required in subsection (a) of this section, he or she shall file
20 additional information with the ~~department~~ Department on a form prescribed
21 by the ~~commissioner~~ Commissioner.

1 ~~Sec. 59. 33 V.S.A. § 2301(d) is amended to read:~~

2 ~~(d) For the purpose of As used in this chapter, “burial” means the final~~
3 ~~disposition of human remains, including interring or cremating a decedent and~~
4 ~~the ceremonies directly related to that cremation or interment at the gravesite;~~
5 ~~“Department” means the Department for Children and Families; and “funeral”~~
6 ~~means the ceremonies prior to burial by interment, cremation, or other method.~~

7 Sec. 60. REDESIGNATION

8 ~~33 V.S.A. § 2501a (Office of Home Energy Assistance) is redesignated as~~
9 ~~33 V.S.A. § 2602a.~~

10 Sec. 61. 33 V.S.A. § 2503 is amended to read:

11 § 2503. FUEL GROSS RECEIPTS TAX

12 * * *

13 (c) The tax shall be administered by the ~~commissioner of taxes~~
14 ~~Commissioner of Taxes~~, and all receipts shall be deposited by the
15 ~~commissioner~~ Commissioner in the ~~home weatherization assistance trust fund~~
16 Home Weatherization Assistance Trust Fund. All provisions of law relating to
17 the collection, administration, and enforcement of the sales and use tax
18 imposed by 32 V.S.A. chapter 233 ~~of Title 32~~ shall apply to the tax imposed by
19 this chapter.

20 (d) ~~[Repealed.]~~

1 ~~(c) Fuel sellers, which are regulated “companies” as defined in subsection~~
2 30 V.S.A. § 201(a), which provide conservation programs that meet the goals
3 of the weatherization program in a manner approved by the ~~public service~~
4 ~~board~~ Public Service Board, and which enhance the weatherization program’s
5 capacity to serve low income households may be eligible for rebates from the
6 fuel gross receipts tax imposed under this section. To establish rebate
7 eligibility, ~~such~~ a company shall file with the ~~public service board~~ Public
8 Service Board, on or before August 15 of each year, a request for approval of
9 rebates based on the company’s activities during the prior fiscal year. The
10 ~~public service board~~ Public Service Board shall make a determination of the
11 amount of rebate for each applicant on or before January 15 of each year, and
12 such amount shall be rebated by the ~~state economic opportunity office~~ State
13 Office of Economic Opportunity under the provisions of subsection ~~(g)~~(f) of
14 this section. The ~~public service board~~ Public Service Board shall authorize
15 rebates equal to the expenditures undertaken by the regulated utilities provided
16 that such expenditures were prudently incurred and cost-effective, that they
17 provided weatherization services following a comprehensive energy audit and
18 work plan, except in cases where the fuel seller and weatherization staff jointly
19 conclude that the need for weatherization services can be determined without a
20 comprehensive energy audit, and that they were targeted to households that
21 meet the eligibility criteria for low income weatherization services as

1 ~~determined by the office of economic opportunity~~ Office of Economic
2 Opportunity.

3 ~~(f)(c)~~ Unregulated fuel sellers ~~that provide~~ providing conservation
4 programs that meet the goals of the weatherization program in a manner
5 approved by the ~~state economic opportunity office~~ State Office of Economic
6 Opportunity and ~~which~~ that enhance the weatherization program's capacity to
7 serve low income households may be eligible for rebates from the fuel gross
8 receipts tax imposed under this section. To establish rebate eligibility, ~~such~~ a
9 company shall file with the ~~state economic opportunity office~~ State Office of
10 Economic Opportunity, on or before August 15 of each year, a request for
11 approval of rebates based on the company's activities during the prior fiscal
12 year. The ~~state economic opportunity office~~ State Office of Economic
13 Opportunity shall make a determination of the amount of rebate for each
14 applicant on or before January 15 of each year, and ~~such~~ that amount shall be
15 rebated by the ~~state economic opportunity office~~ State Office of Economic
16 Opportunity under the provisions of this subsection. The ~~state economic~~
17 ~~opportunity office~~ State Office of Economic Opportunity shall authorize
18 rebates equal to the expenditures undertaken by the unregulated fuel sellers
19 provided that ~~such~~ the expenditures were prudently incurred and cost-effective,
20 that they provided weatherization services following a comprehensive energy
21 audit and work plan, except in cases where the fuel seller and weatherization

1 ~~staff jointly conclude that the need for weatherization services can be~~
2 determined without a comprehensive energy audit, and that they were targeted
3 to households at or below 150 percent of the federally-established poverty
4 guidelines.

5 ~~(g)(f)~~ On or before August 7 of each year, the ~~director~~ Director of the ~~state~~
6 ~~economic opportunity office~~ State Office of Economic Opportunity shall set
7 aside a sum of money equaling two and one-half percent of the tax receipts of
8 the fuel gross receipts tax for the preceding fiscal year in an escrow account.

9 The monies in the escrow account are to be used for rebate, as approved under
10 subsections (d) and (e) ~~and (f)~~ of this section, of the gross receipts tax
11 established in subsection (a) of this section. Upon approval of rebates, the
12 ~~director~~ Director shall pay the approved rebates out of the escrow account. In
13 the event that the approved rebates exceed the amount of money set aside in
14 the escrow account, the ~~director~~ Director shall prorate each rebate. Any
15 balance of rebate awards remaining unpaid as a result of proration may be
16 carried forward for payment in a succeeding year. If monies set aside exceed
17 approved rebates, then the balance shall be returned to the ~~trust fund~~ Trust
18 Fund. The ~~director~~ Director of the ~~state economic opportunity office~~ State
19 Office of Economic Opportunity shall use the remainder of the tax receipts of
20 the fuel gross receipts tax for the preceding fiscal year to assure the provision

1 ~~of weatherization services as described in subsections 2502(a), (b), and (c) of~~
2 this title.

3 ~~(h)(g)~~ No tax under this section shall be imposed for any quarter ending
4 after June 30, 2016. Monies from the escrow account shall be issued for
5 rebates pursuant to subsection ~~(g)(f)~~ of this section until March 1, 2017.

6 Sec. 62. 33 V.S.A. § 2604(b) is amended to read:

7 (b) Fuel cost requirements. ~~The secretary of human services~~ Secretary of
8 Human Services or designee shall by procedure establish a table that contains
9 amounts that will function as a proxy for applicant households' annual heating
10 fuel cost for the previous year. The seasonal fuel expenditure estimates
11 contained within ~~such~~ the table shall closely approximate the actual home
12 heating costs experienced by participants in the ~~home heating fuel assistance~~
13 ~~program~~ Home Heating Fuel Assistance Program. ~~Such~~ The table shall be
14 revised no less frequently than every three years based on data supplied by
15 certified fuel suppliers, the ~~department of public service~~ Department of Public
16 Service, and other industry sources to the ~~office of home heating fuel~~
17 ~~assistance~~ Office of Home Heating Fuel Assistance. The ~~secretary~~ Secretary
18 or designee shall provide a draft of the table to the ~~home energy assistance task~~
19 ~~force~~ Home Energy Assistance Task Force established pursuant to subsection
20 ~~2501a(e)~~ 2602a(c) of this title and solicit input from the ~~task force~~ Task Force
21 prior to finalizing the table.

1 ~~Sec. 63. 33 V.S.A. § 2607(f) is amended to read:~~

2 (f) The ~~secretary of human services~~ Secretary of Human Services or
3 designee shall negotiate with one or more certified fuel suppliers to obtain the
4 most advantageous pricing, ~~and~~ payment terms, and delivery methods possible
5 for eligible households.

6 Sec. 64. 33 V.S.A. § 3303(a) is amended to read:

7 (a) The ~~council~~ Council shall assist state agencies and the departments in
8 the development, improvement, and coordination of primary prevention
9 programs and activities at the state and local levels. In providing this service,
10 the ~~council~~ Council shall:

11 (1) acquire and provide pertinent research data and technical assistance
12 related to the development and practice of primary prevention programs;

13 (2) develop a state primary prevention plan that coordinates and
14 consolidates the primary prevention planning efforts of the state ~~agencies~~
15 Agencies and departments Departments specified in section ~~3304~~ 3305 of this
16 title;

17 * * *

18 Sec. 65. 33 V.S.A. § 3304 is amended to read:

19 § 3304. STATE PRIMARY PREVENTION PLAN

20 * * *

1 ~~(b) By July 1, 1984, the council shall submit a prevention plan to the~~
2 ~~governor and to the senate and house committees on health and welfare and~~
3 ~~appropriations. Such plan shall incorporate and consolidate the proposals and~~
4 ~~recommendations for primary prevention developed by:~~

5 ~~(1) the department of education;~~

6 ~~(2) the agency of human services, including all departments;~~

7 ~~(3) the department of motor vehicles.~~

8 ~~(c) By July 1, 1985, the council shall submit a revised prevention plan to~~
9 ~~the governor and to the senate and house committees on health and welfare and~~
10 ~~appropriations. The revised plan shall incorporate and consolidate proposals~~
11 ~~and recommendations for primary prevention developed by:~~

12 ~~(1) the office of the attorney general;~~

13 ~~(2) the agency of commerce and community development;~~

14 ~~(3) the department of labor;~~

15 ~~(4) the department of public safety;~~

16 ~~(5) the department of forests, parks and recreation.~~

17 ~~(d)~~(b) By July 1, 1986, and biennially thereafter of each even-numbered
18 year, the ~~council~~ Council shall revise the state primary prevention plan which
19 shall be submitted to the ~~governor~~ Governor and the ~~senate and house~~
20 ~~committees~~, the House Committee on Human Services, the House Committee

1 ~~on Appropriations, the Senate Committee on health and welfare Health and~~
2 ~~Welfare, and the Senate Committee on appropriations Appropriations.~~

3 Sec. 66. 33 V.S.A. § 3305 is amended to read:

4 § 3305. IMPLEMENTATION AND EVALUATION OF PRIMARY
5 PREVENTION PLAN

6 ~~The state agencies and departments specified in section 3304 this title shall~~
7 ~~formulate primary Primary prevention policies and implementation practices~~
8 ~~that are consistent with the state primary prevention plan. Such policies and~~
9 ~~practices shall be targeted to specific goals, objectives, and key result areas and~~
10 ~~shall be consistent with the state primary prevention plan. The following~~
11 ~~departments and agencies shall formulate the policies and practices:~~

12 (1) the Agency of Education;

13 (2) the Agency of Human Services, including all departments;

14 (3) the Department of Motor Vehicles;

15 (4) the Office of the Attorney General;

16 (5) the Agency of Commerce and Community Development;

17 (6) the Department of Labor;

18 (7) the Department of Public Safety; and

19 (8) the Department of Forests, Parks and Recreation.

1 ~~Sec. 67. 33 V.S.A. § 3501 is amended to read:~~

2 ~~§ 3501. FOSTER CARE AND PLACEMENT LICENSING DIVISION OF~~
3 ~~CHILD DEVELOPMENT; DUTIES~~

4 ~~(a) A person, other than an employee of a department within the agency of~~
5 ~~human services shall not place any child in foster care for more than 15~~
6 ~~consecutive days unless the person has a license from the department to do so~~
7 ~~or is an employee of a child placing agency licensed by such department.~~

8 ~~(b) A person shall not receive, board or keep any child in foster care for~~
9 ~~more than 15 consecutive days unless he or she has a license from the~~
10 ~~department to do so. This subsection shall not apply to foster homes approved~~
11 ~~by a department within the agency of human services or by a licensed child~~
12 ~~placing agency nor shall it apply to those facilities where educational or~~
13 ~~vocational training is the primary service and foster care is a supportive service~~
14 ~~only.~~

15 ~~(c) This section shall not restrict the right of a court, parent, guardian, or~~
16 ~~relative to place a child, nor the right of a person not in the business of~~
17 ~~providing foster care or child care to receive, board and keep a child when a~~
18 ~~valuable consideration is not demanded or received for the child's care and~~
19 ~~maintenance.~~

1 ~~The Division of Child Development shall:~~

2 ~~(1) encourage the development of a comprehensive child care services~~
3 ~~system which promotes the wholesome growth and educational development~~
4 ~~of children;~~

5 ~~(2) facilitate the development of child care facilities;~~

6 ~~(3) encourage and promote the provision by child care providers of~~
7 ~~parenting education, developmentally appropriate activities, and primary~~
8 ~~prevention services;~~

9 ~~(4) facilitate cooperation between the private and public sectors to~~
10 ~~promote the expansion of child care services;~~

11 ~~(5) promote continuing study of child care needs and the most effective~~
12 ~~methods by which these needs can be served through governmental and private~~
13 ~~programs;~~

14 ~~(6) coordinate activities of the Division with other state agencies serving~~
15 ~~children and families;~~

16 ~~(7) strive to make the State a model employer by encouraging it to offer~~
17 ~~a variety of child care benefit options to its employees;~~

18 ~~(8) provide training for child care providers;~~

19 ~~(9) support resource and referral services for parents and providers;~~

1 ~~(10) promote the involvement of businesses and communities in the~~
2 ~~development of child care services throughout the State by providing technical~~
3 ~~assistance to providers and potential providers of child care services.~~

4 Sec. 68. 33 V.S.A. § 3502 is amended to read:

5 § 3502. CHILD CARE FACILITIES; SCHOOL AGE CARE IN PUBLIC
6 SCHOOLS; 21st CENTURY FUND

7 * * *

8 (b) The following persons are exempted from the provisions of subsection
9 (a) of this section:

10 * * *

11 (2) A hospital or establishment holding a license issued by the
12 ~~department of health~~ Department of Health, or a person operating a program
13 primarily for recreational or therapeutic purposes, unless the hospital,
14 establishment, or person provides services for the care, protection, and
15 supervision of children not incidental to its primary purpose in which case
16 subsection (a) of this section shall apply to those nonincidental additional
17 services.

18 * * *

19 (g) ~~[Deleted.]~~ [Repealed.]

20 * * *

1 ~~Sec. 69. 33 V.S.A. § 3511 is amended to read:~~

2 § 3511. DEFINITIONS

3 As used in this chapter:

4 (1) "Child" means an individual under the age of 13.

5 (2) "Child care facility" means any place or program operated as a
6 business or service on a regular or continuous basis, whether for compensation
7 or not, whose primary function is protection, care, and supervision of children
8 under 16 years of age outside their homes for periods of fewer than 24 hours a
9 day by a person other than a child's own parent, guardian, or relative, as
10 defined by rules adopted by the Department for Children and Families, but not
11 including a kindergarten approved by the State Board of Education.

12 (3) "Child care provider" means a person licensed or registered by the
13 ~~department for children and families~~ Department for Children and Families, or
14 authorized by the ~~department~~ Department, to provide child care.

15 ~~(3)(4)~~ (4) "Child care services" include, ~~but are not limited to,~~
16 developmentally appropriate care and supervision for children under the age of
17 13 for fewer than 24 hours a day by a child care provider.

18 ~~(4)(5)~~ (5) "Commissioner" means the ~~commissioner for children and~~
19 ~~families~~ Commissioner for Children and Families.

20 ~~(5)(6)~~ (6) "Division" means the ~~child development division~~ Child
21 Development Division.

1 ~~(6)(7) “Family child care home” means a child care facility which~~
2 ~~provides care on a regular basis in the caregiver’s own residence for not more~~
3 ~~than 10 children at any one time. Of this number, up to six children may be~~
4 ~~provided care on a full-time basis and the remainder on a part-time basis. For~~
5 ~~the purpose of this subdivision, care of a child on a part-time basis shall mean~~
6 ~~care of a school-age child for not more than four hours a day. These limits~~
7 ~~shall not include children who reside in the residence of the caregiver, except:~~

8 ~~(A) these part-time school-age children may be cared for on a~~
9 ~~full-day basis during school closing days, snow days, and vacation days which~~
10 ~~occur during the school year; and~~

11 ~~(B) during the school summer vacation, up to 12 children may be~~
12 ~~cared for provided that at least six of these children are of school age and a~~
13 ~~second staff person is present and on duty when the number of children in~~
14 ~~attendance exceeds six. These limits shall not include children who are~~
15 ~~required by law to attend school (age seven and older) and who reside in the~~
16 ~~residence of the caregiver.~~

17 ~~(8) “Training” means an activity, approved by the commissioner~~
18 ~~Commissioner or the commissioner’s Commissioner’s designee, which that is~~
19 ~~likely to lead to employment or required to maintain employment.~~

1 ~~Sec. 70. 33 V.S.A. § 3513 is amended to read:~~

2 § 3513. PROTECTIVE AND FAMILY SUPPORT CHILD CARE
3 SERVICES

4 The ~~division~~ Division shall establish a program which subsidizes, in whole
5 or in part, the cost of child care services provided to protective services
6 children or to families for the purpose of preserving, rehabilitating, or
7 reunifying such families.

8 Sec. 71. 33 V.S.A. § 3521 is redesignated to read:

9 § 3521. CHILD CARE FACILITIES FINANCING PROGRAM
10 ESTABLISHED; ~~ADVISORY BOARD~~

11 Sec. 72. 33 V.S.A. § 3531 is amended to read:

12 § 3531. CHILD CARE—BUILDING BRIGHT SPACES FOR BRIGHT
13 FUTURES FUNDS

14 (a) A child care facilities financing program is established to facilitate the
15 development and expansion of child care facilities in the ~~state~~ State. The
16 program shall be administered by the ~~department of social and rehabilitation~~
17 ~~services~~ Department for Children and Families.

18 (b) The program shall be supported from a special fund, to be known as the
19 ~~“building bright spaces for bright futures fund,”~~ “Building Bright Spaces for
20 Bright Futures Fund,” hereinafter referred to as ~~“the bright futures fund,”~~ “the
21 Bright Futures Fund,” hereby created for this purpose to be administered by the

1 ~~commissioner of social and rehabilitation services~~ Commissioner for Children
2 and Families. Subject to approvals required by 32 V.S.A § 5, the ~~fund~~ Fund
3 may accept gifts and donations from any source, and the ~~commissioner~~
4 Commissioner may take appropriate actions to encourage contributions and
5 designations to the account, including publicizing explanations of the purposes
6 of the ~~fund~~ Fund and the uses to which the ~~bright futures fund~~ Bright Futures
7 Fund has been or will be applied.

8 (c) Funds appropriated for this program shall be used by the ~~commissioner~~
9 Commissioner to award grants to eligible applicants for the development and
10 expansion of child care options and community programs targeted for youths
11 aged 14 through 18. These options may include recreational programs and
12 related equipment or facilities, development or expansion of child care
13 facilities, and community-based programs which address specific child care
14 and youth program needs of the applicant region. The ~~commissioner~~
15 Commissioner shall establish, by rule, criteria, conditions, and procedures for
16 awarding such grants and administering this program.

17 Sec. 73. 33 V.S.A. § 3901(2) is amended to read:

18 (2) "Custodial parent" means any person with whom a dependent child
19 actually resides, whether or not the parent is receiving public assistance
20 benefits under chapter 11 of this title, or the ~~commissioner of the Vermont~~
21 ~~department of social and rehabilitation services~~ Commissioner for Children

1 ~~and Families if the dependent child is under the care and control of that~~
2 ~~department~~ Department.

3 Sec. 74. 33 V.S.A. § 4105(e) is added to read:

4 (e) A public utility company as defined in 30 V.S.A. § 201(a), or a cable
5 television company as defined in 30 V.S.A. § 501, when requested by the
6 Office of Child Support, shall provide the address as it appears in its customer
7 records of a parent or person named in the request.

8 Sec. 75. 33 V.S.A. § 4111 is added to read:

9 § 4111. ACCESS TO FINANCIAL RECORDS OF DEPOSIT ACCOUNTS
10 OF INDIVIDUALS WHO OWE OVERDUE CHILD SUPPORT

11 (a) As used in this section:

12 (1) "Depositor" means an owner of an account in a financial institution
13 and includes a "share account holder" of a credit union.

14 (2) "Financial institution" means a trust company, savings bank,
15 industrial bank, commercial bank, savings and loan association, or credit union
16 organized under the laws of this State or authorized to do business in this State.

17 (3) "Match" means an automated comparison by name, Social Security
18 number, and, if available, date of birth of a list of obligors provided to a
19 financial institution by the Office and a list of depositors of a financial
20 institution.

21 (4) "Obligor" means a person who owes child support.

1 ~~(5) "Office" means the Office of Child Support.~~

2 (6) "Overdue support" means a debt of one-quarter of the annual support
3 obligation or more for maintenance and support of a child or children and the
4 obligor had prior notice of the debt and a prior opportunity to contest the
5 amount owed. "Overdue support" includes spousal support or alimony being
6 collected in conjunction with child support.

7 (b) Upon written request from the Director of the Office of Child Support
8 and provided the institution has the technological capacity to perform a match,
9 a financial institution shall perform a match of obligors who owe overdue child
10 support. The Office shall make its computerized information necessary for a
11 match available in a form that is compatible with the technology used by the
12 financial institution that will perform the search. A financial institution shall
13 not be required to perform a match under this section more often than once
14 every quarter.

15 (c) After completing a match requested under subsection (b) of this section,
16 a financial institution shall notify the Office of Child Support. The notification
17 shall contain the following information, if available to the financial institution
18 through its matching procedure, for each account identified:

19 (1) the full name, date of birth, and address of the obligor;

20 (2) the Social Security number of the obligor;

21 (3) the obligor's account number; and

1 ~~(4) the amount of deposits contained in the obligor's account.~~

2 (d) A financial institution shall send a match list compiled under this
3 section to the Office at the address designated by the Office.

4 (e) The financial institution shall not provide notice in any form to a
5 depositor contained in a match list submitted to the Office under subsection (d)
6 of this section. Failure to provide notice to a depositor shall not constitute a
7 violation of the financial institution's duty of good faith to its customers.

8 (f) A financial institution may charge the Office a fee for services provided
9 under this section; provided that the fee shall not exceed the actual costs
10 incurred by the financial institution.

11 (g) The information provided by the Office to a financial institution under
12 this section shall be confidential and shall be used only for the purpose of
13 carrying out the requirements of this section.

14 Sec. 76. 33 V.S.A. § 4302 is amended to read:

15 § 4302. STATE INTERAGENCY TEAM

16 (a) A state interagency team is created and shall consist of eight members:

17 (1) the ~~director~~ Director of the division responsible for special education
18 for the ~~department of education~~ Agency of Education;

19 (2) the ~~department of education's~~ Agency of Education's consultant for
20 children and adolescents with a severe emotional disturbance;

1 ~~(3) the director Director of the division responsible for children's mental
2 health services for the ~~department of developmental and mental health services~~
3 Department of Mental Health;~~

4 ~~(4) the children's program specialist for Chief of the division
5 responsible for mental health services Children, Adolescents, and Family Unit
6 in the Division of Children's Mental Health Services for the ~~department of~~
7 ~~developmental and mental health services~~ Department of Mental Health;~~

8 ~~(5) the director of the division responsible for social services for the
9 ~~department of social and rehabilitation services~~ Deputy Commissioner for the
10 Family Services Division of the Department for Children and Families;~~

11 ~~(6) the placement consultant for the division responsible for social
12 ~~services for the department of social and rehabilitation services~~ Family
13 Services Division of the Department for Children and Families;~~

14 ~~(7) a representative of the secretary of the agency of human services
15 Secretary of Human Services; and~~

16 ~~(8) a parent of a child or adolescent with a severe emotional disturbance.
17 ~~Such~~ The parent shall receive compensation in accordance with the provisions
18 of ~~section 1010 of Title 32 V.S.A. § 1010~~, and ~~such~~ the compensation shall be
19 paid for by the ~~agency of human services~~ Agency of Human Services.~~

20 (b) The state interagency team shall have the following powers and duties:

1 ~~(1) submit an annual report to the commissioners of developmental and~~
2 ~~mental health services, social and rehabilitation services~~ Commissioners of
3 Mental Health and for Children and Families and the Secretary of Education
4 on the status of programs for children and adolescents with a severe emotional
5 disturbance which shall include a system of care plan. The system of care plan
6 shall identify the characteristics and number of children and adolescents with a
7 severe emotional disturbance in need of services, describe the educational,
8 residential, mental health, or other services needed, describe the programs and
9 resources currently available, recommend a plan to meet the needs of such
10 children and adolescents, and recommend priorities for the continuation or
11 development of programs and resources;

12 ~~(2) ensure that local interagency teams are established by January 1,~~
13 ~~1989;~~

14 ~~(3)~~ develop and coordinate the provision of services to children and
15 adolescents with a severe emotional disturbance;

16 ~~(4)~~(3) make recommendations to the local interagency team for
17 resolution of any case of a child or adolescent with a severe emotional
18 disturbance referred by a local interagency team under subsection 4303(f) of
19 this chapter; and

20 ~~(5)~~(4) recommend to the ~~secretary of the agency of human services and~~
21 ~~to the commissioners of the departments of education, developmental and~~

1 ~~mental health services, and social and rehabilitation services~~ Secretaries of
2 Human Services and of Education and the Commissioners of Mental Health
3 and for Children and Families any fiscal, policy, or programmatic change at
4 the local, regional, or state level necessary to enhance the ~~state's~~ State's system
5 of care for children and adolescents with a severe emotional disturbance and
6 their families.

7 Sec. 77. 33 V.S.A. § 4303 is amended to read:

8 § 4303. LOCAL INTERAGENCY TEAMS

9 (a) There shall be at least one local interagency team for each
10 administrative district established by the ~~department of social and~~
11 ~~rehabilitation services~~ Department for Children and Families whose permanent
12 membership shall include:

13 (1) the person from the designated community mental health agency for
14 that district responsible for coordinating children's services;

15 (2) the person managing the family services district office of the
16 ~~department of social and rehabilitation services~~ Department for Children and
17 Families for that district;

18 (3) a special education administrator from a school district in that
19 district;

20 (4) a person designated by the ~~secretary~~ Secretary of the agency of
21 ~~human services~~ Human Services;

1 ~~(5) a parent of a child or adolescent with a severe emotional disturbance.~~

2 ~~Such~~ The parent shall receive compensation in accordance with the provisions
3 of ~~section 1010 of Title 32 V.S.A. § 1010,~~ and ~~such~~ the compensation shall be
4 paid for by the ~~agency of human services~~ Agency of Human Services.

5 * * *

6 Sec. 78. 33 V.S.A. § 4304a is amended to read:

7 § 4304a. ADVISORY BOARD

8 (a) ~~An advisory board~~ Advisory Board is created to advise the
9 ~~commissioners of developmental and mental health services, social and~~
10 ~~rehabilitation services and education~~ Secretary of Education and the
11 Commissioners of Mental Health and for Children and Families about children
12 and adolescents with a severe emotional disturbance and their families.

13 * * *

14 Sec. 79. 33 V.S.A. § 4305 is amended to read:

15 § 4305. COORDINATED SYSTEM OF CARE

16 (a)(1) Services provided by or through the ~~departments of developmental~~
17 ~~and mental health services, social and rehabilitation services and education~~
18 Departments of Mental Health and for Children and Families and the Agency
19 of Education to children and adolescents with a severe emotional disturbance
20 shall be pursuant to a coordinated services plan, developed in accordance with
21 the provisions of this chapter.

1 ~~(2) Nothing in the provisions of this chapter shall be construed to grant~~
2 an entitlement to any child or adolescent with a severe emotional disturbance
3 to receive any educational, residential, mental health, or other service until and
4 unless the ~~general assembly~~ General Assembly further provides that such
5 children and adolescents or any subgroup thereof are so entitled.

6 (b)(1) ~~The state board of education~~ State Board of Education and the
7 ~~departments of developmental and,~~ the Department of Mental Health services
8 ~~and social and rehabilitation services,~~ and the Department for Children and
9 Families shall jointly adopt rules by ~~January 1, 1991~~ implementing the
10 provisions of this chapter. Such rules shall:

11 ~~(1)(A)~~ (A) provide guidelines for local interagency teams for development
12 of procedures, with public participation, relating to:

13 ~~(A)(i)~~ (i) referral, assessment, development, annual review and revision
14 of coordinated service plans, and time frames for these activities;

15 ~~(B)(ii)~~ (ii) fixing responsibility for case management; and

16 ~~(C)(iii)~~ (iii) notice to parents and guardians and other agencies.

17 ~~Local interagency teams shall submit procedures developed in accordance~~
18 ~~with the rules adopted under this subdivision to the advisory board for review~~
19 ~~and comment. Thereafter, the proposed procedures shall be submitted to the~~
20 ~~commissioners, who shall approve the procedures if all the elements of these~~
21 ~~subdivisions are satisfied.~~

1 ~~(2)(B) protect the rights of children and adolescents and their parents~~
2 and guardians concerning consent and confidentiality; and

3 ~~(3)(C) ensure that matters unresolved after state interagency team~~
4 review are subject to procedures for notice, hearing, and decisions of contested
5 cases consistent with the provisions of 3 V.S.A. chapter 25 of Title 3.

6 (2) Local interagency teams shall submit procedures developed in
7 accordance with the rules adopted under subdivision (1)(A) of this subsection
8 to the Advisory Board for review and comment. Thereafter, the proposed
9 procedures shall be submitted to the Commissioners, who shall approve the
10 procedures if all the elements specified in subdivision (1)(A) of this subsection
11 are satisfied.

12 ~~(c) The commissioners of developmental and mental health services, social~~
13 ~~and rehabilitation services and education~~ Commissioners of Mental Health and
14 for Children and Families and the Secretary of Education shall jointly submit
15 to the ~~general assembly~~ General Assembly a report on the status of programs
16 for children and adolescents with a severe emotional disturbance and their
17 families which shall include a system of care plan. The report shall be
18 submitted together with the general appropriation bill provided for by ~~section~~
19 ~~701 of Title 32~~ V.S.A. § 701. The system of care plan shall:

20 * * *

1 ~~(d) The secretary of human services and the commissioner of education~~
2 ~~shall report to the general assembly by January 15, 1991 with their~~
3 ~~recommendations concerning the coordination and provision of adequate and~~
4 ~~appropriate services to all children with disabilities. The report shall identify~~
5 ~~the characteristics and number of children with disabilities in need of services,~~
6 ~~describe the educational, residential, mental health, or other services needed,~~
7 ~~describe currently available programs and resources, recommend priorities for~~
8 ~~the needs of children with disabilities, and recommend a plan to meet the~~
9 ~~continuation or development of programs and resources.~~

10 (e) Nothing contained in this chapter shall be construed to diminish the
11 rights of children with disabilities, their parents, guardians, or surrogate parents
12 under federal or state law, including but not limited to confidentiality, consent
13 for services and evaluation, and parental involvement.

14 ~~(f)~~(e) Nothing contained in this chapter shall entitle children and
15 adolescents with a severe emotional disturbance to special education services
16 unless they are otherwise eligible for such services under state or federal law.

17 ~~(g)~~(f) Except as otherwise provided in ~~chapter 55~~ chapters 51, 52, and 53 of
18 this title, the receipt of appropriate services for a child or adolescent with a
19 severe emotional disturbance or the child or adolescent's family, including an
20 out-of-home placement, shall not be conditioned on placement of the child or
21 adolescent in the legal custody, protective supervision, or protection of the

1 ~~department of social and rehabilitation services Department for Children and~~
2 Families.

3 Sec. 80. REPEAL

4 33 V.S.A. chapter 45 (children's dental health program) is repealed.

5 Sec. 81. 33 V.S.A. § 4902 is amended to read:

6 § 4902. DEFINITIONS

7 Unless otherwise specifically provided, ~~the following words and phrases in~~
8 as used in this chapter mean:

9 (1) ~~Child:~~ "Child" means a person under the age of 18 years committed
10 by the ~~juvenile court~~ Juvenile Court to the department for children and families
11 prior to April 14, 1974 and to the ~~department for children and families~~
12 thereafter, except that for the purpose of ~~subchapter 1 of chapter 35 of this title,~~
13 a child is a person under the age of 16 years Department for Children and
14 Families.

15 (2) ~~Child care facility:~~ any place or program operated as a business or
16 service on a regular or continuous basis, whether for compensation or not,
17 whose primary function is protection, care, and supervision of children under
18 16 years of age outside their homes for periods of less than 24 hours a day by a
19 person other than a child's own parent, guardian, or relative, as defined by
20 rules adopted by the department for children and families, but not including a

1 ~~kindergarten approved by the state board of education. "Commissioner"~~

2 ~~means the Commissioner for Children and Families.~~

3 ~~(3) A family child care home: is a child care facility which provides for~~
4 ~~care on a regular basis in the caregiver's own residence for not more than 10~~
5 ~~children at any one time. Of this number, up to six children may be provided~~
6 ~~care on a full-time basis and the remainder on a part-time basis. For the~~
7 ~~purpose of this subdivision, care of a child on a part-time basis shall mean care~~
8 ~~of a school-age child for not more than four hours a day. These limits shall not~~
9 ~~include children who reside in the residence of the caregiver; except:~~

10 ~~(A) these part-time school-age children may be cared for on a~~
11 ~~full-day basis during school closing days, snow days and vacation days which~~
12 ~~occur during the school year; and~~

13 ~~(B) during the school summer vacation, up to 12 children may be~~
14 ~~cared for provided that at least six of these children are school-age and a~~
15 ~~second staff person is present and on duty when the number of children in~~
16 ~~attendance exceeds six. These limits shall not include children who are~~
17 ~~required by law to attend school (age seven and older) and who reside in the~~
18 ~~residence of the caregiver. "Department" means the Department for Children~~
19 ~~and Families.~~

1 ~~(4) Foster care: "Foster care" means care of a child, for a valuable~~
2 ~~consideration, in a ~~child care~~ child care institution or in a family other than that~~
3 ~~of the child's parent, guardian, or relative.~~

4 ~~(5) Commissioner: the commissioner for children and families.~~

5 ~~(6) Department: the department for children and families.~~

6 Sec. 82. 33 V.S.A. § 4905 is added to read:

7 § 4905. FOSTER CARE AND PLACEMENT LICENSING

8 (a) A person other than an employee of a department within the Agency of
9 Human Services shall not place any child in foster care for more than 15
10 consecutive days unless the person has a license from the Department to do so
11 or is an employee of a child-placing agency licensed by that Department.

12 (b) A person shall not receive, board, or keep any child in foster care for
13 more than 15 consecutive days unless he or she has a license from the
14 Department to do so. This subsection shall not apply to foster homes approved
15 by a department within the Agency of Human Services or by a licensed
16 child-placing agency, nor shall it apply to those facilities where educational or
17 vocational training is the primary service and foster care is a supportive
18 service only.

19 (c) This section shall not restrict the right of a court, parent, guardian, or
20 relative to place a child, nor the right of a person not in the business of
21 providing foster care or child care to receive, board, and keep a

1 ~~valuable consideration is not demanded or received for the child's care and~~
2 maintenance.

3 Sec. 83. 33 V.S.A. § 4912 is amended to read:

4 § 4912. DEFINITIONS

5 As used in this subchapter:

6 (1) ~~“Child” means an individual under the age of majority~~ “Abused or
7 neglected child” means a child whose physical health, psychological growth
8 and development, or welfare is harmed or is at substantial risk of harm by the
9 acts or omissions of his or her parent or other person responsible for the child's
10 welfare. An “abused or neglected child” also means a child who is sexually
11 abused or at substantial risk of sexual abuse by any person.

12 (2) ~~An “abused or neglected child” means a child whose physical health,~~
13 ~~psychological growth and development or welfare is harmed or is at substantial~~
14 ~~risk of harm by the acts or omissions of his or her parent or other person~~
15 ~~responsible for the child's welfare. An “abused or neglected child” also means~~
16 ~~a child who is sexually abused or at substantial risk of sexual abuse by any~~
17 ~~person~~ “Assessment” means a response to a report of child abuse or neglect
18 that focuses on the identification of the strengths and support needs of the child
19 and the family and any services they may require to improve or restore their
20 well-being and to reduce the risk of future harm. The child and family

1 ~~assessment does not result in a formal determination as to whether the reported~~
2 ~~abuse or neglect has occurred.~~

3 (3) ~~“Harm” can occur by:~~

4 (A) ~~Physical injury or emotional maltreatment;~~

5 (B) ~~Failure to supply the child with adequate food, clothing, shelter,~~
6 ~~or health care. For the purposes of this subchapter, “adequate health care”~~
7 ~~includes any medical or nonmedical remedial health care permitted or~~
8 ~~authorized under state law. Notwithstanding that a child might be found to be~~
9 ~~without proper parental care under chapter 55 of Title 33, a parent or other~~
10 ~~person responsible for a child’s care legitimately practicing his or her religious~~
11 ~~beliefs who thereby does not provide specified medical treatment for a child~~
12 ~~shall not be considered neglectful for that reason alone; or~~

13 (C) ~~Abandonment of the child~~ “Child” means an individual under the
14 age of majority.

15 (4) ~~“Risk of harm” means a significant danger that a child will suffer~~
16 ~~serious harm other than by accidental means, which harm would be likely to~~
17 ~~cause physical injury, neglect, emotional maltreatment or sexual abuse~~ “Child
18 protection registry” means a record of all investigations that have resulted in a
19 substantiated report on or after January 1, 1992.

20 (5) ~~“A person responsible for a child’s welfare” includes the child’s~~
21 ~~parent; guardian; foster parent; any other adult residing in the child’s home~~

1 ~~who serves in a parental role; an employee of a public or private residential~~
2 ~~home, institution or agency; or other person responsible for the child's welfare~~
3 ~~while in a residential, educational, or child care setting, including any staff~~
4 ~~person~~ “Emotional maltreatment” means a pattern of malicious behavior which
5 results in impaired psychological growth and development.

6 (6) ~~“Physical injury” means death, or permanent or temporary~~
7 ~~disfigurement or impairment of any bodily organ or function by other than~~
8 ~~accidental means~~ “Harm” can occur by:

9 (A) physical injury or emotional maltreatment;

10 (B) failure to supply the child with adequate food, clothing, shelter,
11 or health care. For the purposes of this subchapter, “adequate health care”
12 includes any medical or nonmedical remedial health care permitted or
13 authorized under state law. Notwithstanding that a child might be found to be
14 without proper parental care under chapters 51 and 53 of this title, a parent or
15 other person responsible for a child's care legitimately practicing his or her
16 religious beliefs who thereby does not provide specified medical treatment for
17 a child shall not be considered neglectful for that reason alone; or

18 (C) abandonment of the child.

19 (7) ~~“Emotional maltreatment” means a pattern of malicious behavior~~
20 ~~which results in impaired psychological growth and development~~
21 “Investigation” means a response to a report of child abuse or neglect that

1 ~~begins with the systematic gathering of information to determine whether the~~
2 ~~abuse or neglect has occurred and, if so, the appropriate response. An~~
3 ~~investigation shall result in a formal determination as to whether the reported~~
4 ~~abuse or neglect has occurred.~~

5 (8) ~~“Sexual abuse” consists of any act or acts by any person involving~~
6 ~~sexual molestation or exploitation of a child including but not limited to incest,~~
7 ~~prostitution, rape, sodomy, or any lewd and lascivious conduct involving a~~
8 ~~child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or~~
9 ~~procuring of a child to perform or participate in any photograph, motion~~
10 ~~picture, exhibition, show, representation, or other presentation which, in whole~~
11 ~~or in part, depicts a sexual conduct, sexual excitement or sadomasochistic~~
12 ~~abuse involving a child~~ “Member of the clergy” means a priest, rabbi, clergy
13 member, ordained or licensed minister, leader of any church or religious body,
14 accredited Christian Science practitioner, or person performing official duties
15 on behalf of a church or religious body that are recognized as the duties of a
16 priest, rabbi, clergy, nun, brother, ordained or licensed minister, leader of any
17 church or religious body, or accredited Christian Science practitioner.

18 (9) “Multidisciplinary team” means a group of professionals,
19 paraprofessionals, and other appropriate individuals, empaneled in paneled by
20 the commissioner Commissioner under this chapter, for the purpose of
21 assisting in the identification and review of cases of child abuse and neglect.

1 ~~coordinating treatment services for abused and neglected children and their~~
2 families, and promoting child abuse prevention.

3 (10) ~~“Substantiated report” means that the commissioner or the~~
4 ~~commissioner’s designee has determined after investigation that a report is~~
5 ~~based upon accurate and reliable information that would lead a reasonable~~
6 ~~person to believe that the child has been abused or neglected~~ “Person
7 responsible for a child’s welfare” includes the child’s parent, guardian, foster
8 parent, any other adult residing in the child’s home who serves in a parental
9 role, an employee of a public or private residential home, institution, or
10 agency, or other person responsible for the child’s welfare while in a
11 residential, educational, or child care setting, including any staff person.

12 (11) ~~[Repealed.]~~ “Physical injury” means death or permanent or
13 temporary disfigurement or impairment of any bodily organ or function by
14 other than accidental means.

15 (12) ~~“Member of the clergy” means a priest, rabbi, clergy member,~~
16 ~~ordained or licensed minister, leader of any church or religious body,~~
17 ~~accredited Christian Science practitioner, person performing official duties on~~
18 ~~behalf of a church or religious body that are recognized as the duties of a~~
19 ~~priest, rabbi, clergy, nun, brother, ordained or licensed minister, leader of any~~
20 ~~church or religious body, or accredited Christian Science practitioner~~
21 “Redacted investigation file” means the intake report, the investigation

1 ~~activities summary, and case determination report that are amended in~~
2 accordance with confidentiality requirements set forth in section 4913 of this
3 title.

4 (13) ~~“Redacted investigation file” means the intake report, the~~
5 ~~investigation activities summary, and case determination report that are~~
6 ~~amended in accordance with confidentiality requirements set forth in~~
7 ~~subsection 4913(d) of this title~~ “Registry record” means an entry in the child
8 protection registry that consists of the name of an individual substantiated for
9 child abuse or neglect, the date of the finding, the nature of the finding, and at
10 least one other personal identifier, other than a name, listed in order to avoid
11 the possibility of misidentification.

12 (14) ~~“Child protection registry” means a record of all investigations that~~
13 ~~have resulted in a substantiated report on or after January 1, 1992~~ “Risk of
14 harm” means a significant danger that a child will suffer serious harm other
15 than by accidental means, which harm would be likely to cause physical injury,
16 neglect, emotional maltreatment, or sexual abuse.

17 (15) ~~“Registry record” means an entry in the child protection registry~~
18 ~~that consists of the name of an individual substantiated for child abuse or~~
19 ~~neglect, the date of the finding, the nature of the finding, and at least one other~~
20 ~~personal identifier, other than a name, listed in order to avoid the possibility of~~
21 ~~misidentification~~ “Sexual abuse” consists of any act or acts by any person

1 ~~involving sexual molestation or exploitation of a child, including incest,~~
2 ~~prostitution, rape, sodomy, or any lewd and lascivious conduct involving a~~
3 ~~child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or~~
4 ~~procuring of a child to perform or participate in any photograph, motion~~
5 ~~picture, exhibition, show, representation, or other presentation which, in whole~~
6 ~~or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse~~
7 ~~involving a child.~~

8 (16) ~~“Investigation” means a response to a report of child abuse or~~
9 ~~neglect that begins with the systematic gathering of information to determine~~
10 ~~whether the abuse or neglect has occurred and, if so, the appropriate response.~~
11 ~~An investigation shall result in a formal determination as to whether the~~
12 ~~reported abuse or neglect has occurred~~ “Substantiated report” means that the
13 Commissioner or the Commissioner’s designee has determined after
14 investigation that a report is based upon accurate and reliable information that
15 would lead a reasonable person to believe that the child has been abused or
16 neglected.

17 (17) ~~“Assessment” means a response to a report of child abuse or~~
18 ~~neglect that focuses on the identification of the strengths and support needs of~~
19 ~~the child and the family, and any services they may require to improve or~~
20 ~~restore their well being and to reduce the risk of future harm. The child and~~

1 ~~family assessment does not result in a formal determination as to whether the~~
2 ~~reported abuse or neglect has occurred.~~

3 Sec. 84. DELETED

4 Sec. 85. 33 V.S.A. § 4915a(c) is amended to read:

5 (c) Families have the option of declining the services offered as a result of
6 the assessment. If the family declines the services, the case shall be closed
7 unless the ~~department~~ Department determines that sufficient cause exists to
8 begin an investigation or to request the state's attorney to file a petition
9 pursuant to ~~chapter 55~~ chapters 51 and 53 of this title. In no instance shall a
10 case be investigated solely because the family declines services.

11 Sec. 86. DELETED

12 Sec. 87. 33 V.S.A. § 5922 is amended to read:

13 § 5922. APPROPRIATE PUBLIC AUTHORITIES

14 The "appropriate public authorities" as used in Article II of the Interstate
15 Compact on the Placement of Children shall, with reference to this ~~state~~ State,
16 mean the ~~department of social and rehabilitation services~~ Department for
17 Children and Families, and ~~said department~~ the Department shall receive and
18 act with reference to notices required by ~~said~~ Article III.

1 ~~Sec. 88. 33 V.S.A. § 5923 is amended to read:~~

2 ~~§ 5923. COMMISSIONER OF SOCIAL AND REHABILITATION~~

3 ~~SERVICES FOR CHILDREN AND FAMILIES~~

4 As used in paragraph (a) of Article V of the Interstate Compact on the
5 Placement of Children, the phrase “appropriate authority in the receiving state”
6 with reference to this state State shall mean the ~~commissioner of social and~~
7 ~~rehabilitation services~~ Commissioner for Children and Families.

8 Sec. 89. 33 V.S.A. § 6303(a) is amended to read:

9 (a) Consistent with the requirements of this section, the ~~commissioner of~~
10 ~~aging and independent living~~ Commissioner of Disabilities, Aging, and
11 Independent Living shall adopt by rule minimum program standards for the
12 purpose of providing quality oversight of the home health agencies authorized
13 to provide home health services under this subchapter. The minimum program
14 standards shall include performance standards, quality indicators, grievance
15 and complaint procedures, patient safety standards, consumer input
16 mechanisms, accessibility standards, medical necessity standards, and practices
17 to ensure confidentiality of patient records. The rules shall include also
18 minimum program standards to ensure home health agencies do not
19 discriminate in the provision of services based on income, funding source,
20 geographic status, or severity of health needs and to ensure the attainment or
21 continuance of universal access to medically necessary home health services.

1 ~~Sec. 90. 33 V.S.A. § 6504 is amended to read:~~

2 § 6504. MEDICARE BENEFICIARY TO SIGN STATEMENT

3 Annually and prior to treatment, a physician may request that a Medicare
4 beneficiary sign a statement prepared in accordance with this section to
5 determine whether or not the beneficiary may be balance billed. The
6 exceptions contained in subdivision 6503(1) of this title shall not apply if the
7 physician does not request that the beneficiary sign the statement. ~~The~~
8 ~~statement shall be prepared by the department of disabilities, aging, and~~
9 ~~independent living, and shall incorporate the exceptions contained in~~
10 ~~subdivision 6503(1) of this title.~~

11 Sec. 91. 33 V.S.A. § 6506 is amended to read:

12 § 6506. POSTING

13 A physician who treats Medicare or general assistance beneficiaries shall
14 post a summary of the provisions of this chapter in a conspicuous place in his
15 or her office. The summary shall include the statement that any person
16 aggrieved by a physician's failure to comply with the provisions of this chapter
17 may contact the ~~department of disabilities, aging, and independent living~~
18 Department of Disabilities, Aging, and Independent Living for assistance or
19 file a complaint with the ~~division of registration, licensing and secretarial~~
20 services State Board of Medical Practice within the ~~office of the secretary of~~
21 state Department of Health and shall include toll-free telephone numbers to be

1 ~~used for these purposes. The summary shall be written by the department of~~
2 ~~disabilities, aging, and independent living and distributed by the secretary of~~
3 ~~state.~~

4 Sec. 92. 33 V.S.A. § 6507 is amended to read:

5 § 6507. ADMINISTRATION; ENFORCEMENT

6 (a) A person aggrieved by a violation of the provisions of this chapter may
7 file a complaint with the ~~division of registration, licensing and secretarial~~
8 ~~services~~ State Board of Medical Practice within the ~~office of the secretary of~~
9 ~~state~~ Department of Health. The matter shall be ~~heard~~ investigated by the
10 ~~secretary of state, or a hearing officer designated by the secretary,~~ Board and
11 shall be subject to the provisions of 3 V.S.A. chapter 25 of Title 3, relating to
12 contested cases.

13 (b) The ~~secretary of state or the hearing officer~~ Board of Medical Practice
14 may, after hearing, impose an administrative penalty of not more than \$50.00
15 against any physician who violates the provisions of ~~sections~~ section 6505 or
16 6506 of this title relating to assistance and posting.

17 (c) The ~~secretary of state or the hearing officer~~ Board of Medical Practice
18 may, after hearing, order a physician who balance billed in violation of the
19 provisions of this chapter to make restitution of any monies received from a
20 Medicare or general assistance beneficiary as a result of such billing.

1 ~~Sec. 93. REPEAL~~

2 ~~33 V.S.A. § 6508 (Medicare billing report required) is repealed.~~

3 Sec. 94. 33 V.S.A. § 6902 is amended to read:

4 § 6902. DEFINITIONS

5 As used in this chapter:

6 (1) "Abuse" means:

7 (A) Any treatment of a vulnerable adult which places life, health, or
8 welfare in jeopardy or which is likely to result in impairment of health;

9 (B) Any conduct committed with an intent or reckless disregard that
10 such conduct is likely to cause unnecessary harm, unnecessary pain, or
11 unnecessary suffering to a vulnerable adult;

12 * * *

13 (2) "Caregiver" means a person, agency, facility, or other organization
14 with responsibility for providing subsistence or medical or other care to an
15 elderly or disabled adult, who has assumed the responsibility voluntarily, by
16 contract, or by an order of the court; or a person providing care, including ~~but~~
17 ~~not limited to~~ medical care, custodial care, personal care, mental health
18 services, rehabilitative services, or any other kind of care provided which is
19 required because of another's age or disability.

20 * * *

1 ~~(4) "Department" means the state department of disabilities, aging, and~~
2 ~~independent living Vermont Department of Disabilities, Aging, and~~
3 ~~Independent Living.~~

4 * * *

5 (6) "Exploitation" means:

6 (A) Willfully using, withholding, transferring, or disposing of funds
7 or property of a vulnerable adult without or in excess of legal authority for the
8 wrongful profit or advantage of another;

9 * * *

10 (7) "Neglect" means purposeful or reckless failure or omission by a
11 caregiver to:

12 (A)(i) provide care or arrange for goods or services necessary to
13 maintain the health or safety of a vulnerable adult, including, ~~but not limited~~
14 ~~to,~~ food, clothing, medicine, shelter, supervision, and medical services, unless
15 the caregiver is acting pursuant to the wishes of the vulnerable adult or his or
16 her representative, or a ~~terminal care document~~ an advance directive, as
17 defined in ~~subchapter 2 of chapter 111 of Title 18~~ V.S.A. § 9701;

18 * * *

19 (iii) carry out a plan of care for a vulnerable adult when such
20 failure results in or could reasonably be expected to result in physical or
21 psychological harm or a substantial risk of death to the vulnerable adult, unless

1 ~~the caregiver is acting pursuant to the wishes of the vulnerable adult or his or~~
2 her representative, or ~~a terminal care document~~ an advance directive, as
3 defined in ~~subchapter 2 of chapter 111 of Title 18~~ V.S.A. § 9701; or

4 * * *

5 (8) "Plan of care" includes, ~~but is not limited to~~, a duly approved plan of
6 treatment, protocol, individual care plan, rehabilitative plan, plan to address
7 activities of daily living or similar procedure describing the care, treatment, or
8 services to be provided to address a vulnerable adult's physical, psychological,
9 or rehabilitative needs.

10 (9) "Protective services" means services, action, or intervention that
11 will, through voluntary agreement or through appropriate court action, prevent
12 further neglect, abuse, or exploitation of a vulnerable ~~adults~~ adult. Such
13 services may include, ~~but not be limited to~~, supervision, guidance, counseling,
14 petitioning for appointment of a guardian, and, when necessary, assistance in
15 the securing of safe and sanitary living accommodations. However, nothing in
16 this chapter gives the ~~commissioner~~ Commissioner authority to place the
17 vulnerable adult in a state school or hospital, except pursuant to 18 V.S.A.
18 chapter 181 or ~~chapter 206 of Title 18~~.

19 * * *

1 ~~(11) "Sexual activity" means a sexual act as defined in 13 V.S.A.~~

2 ~~§ 3251, other than appropriate medical care or personal hygiene, or lewd and~~
3 ~~lascivious conduct.~~

4 (12) "Substantiated report" means that the ~~commissioner~~ Commissioner
5 or the ~~commissioner's~~ Commissioner's designee has determined after the
6 investigation that a report is based upon accurate and reliable information that
7 would lead a reasonable person to believe that the vulnerable adult has been
8 abused, neglected, or exploited.

9 (13) "Volunteer" means an individual who, without compensation,
10 provides services through a private or public organization.

11 * * *

12 Sec. 95. 33 V.S.A. § 6903 is amended to read:

13 § 6903. REPORTING SUSPECTED ABUSE, NEGLECT, AND
14 EXPLOITATION OF VULNERABLE ADULTS

15 (a) Any of the following, other than a crisis worker acting pursuant to
16 12 V.S.A. § 1614, who knows of or has received information of abuse, neglect,
17 or exploitation of a vulnerable adult or who has reason to suspect that any
18 vulnerable adult has been abused, neglected, or exploited shall report or cause
19 a report to be made in accordance with the provisions of section 6904 of this
20 title within 48 hours:

1 ~~(1) All employees, contractors, and grantees of the agency of human~~
2 ~~services Agency of Human Services who are involved in caregiving.~~

3 (2) A physician, osteopath, chiropractor ~~or~~ physician's assistant, nurse,
4 medical examiner, licensed nursing assistant, emergency medical services
5 personnel, dentist, or psychologist.

6 (3) A school teacher, school librarian, school administrator, school
7 guidance counselor, school aide, school bus driver, or school employee or
8 school contractor who works regularly with students.

9 (4) A mental health professional; social worker; person or organization
10 that offers, provides, or arranges for personal care for vulnerable adults; a
11 caregiver employed by a vulnerable adult; employee of or contractor involved
12 in caregiving for a community mental health center; law enforcement officer;
13 ~~and or an~~ individual who works regularly with vulnerable adults and who is an
14 employee of an adult day care center, area agency on aging, senior center, or
15 meal program designed primarily to serve vulnerable adults.

16 (5) A hospital, nursing home, residential care home, home health
17 agency, or any entity providing nursing or nursing related services for
18 remuneration; intermediate care facility for adults with mental retardation;
19 therapeutic community residence, group home, developmental home, school,
20 or contractor involved in caregiving; or operator or employee of any of these
21 facilities or agencies.

1 ***

2 Sec. 96. 33 V.S.A. § 6909 is amended to read:

3 § 6909. RETALIATORY ACTION BY EMPLOYER PROHIBITED

4 No employer or supervisor may discharge, demote, transfer, reduce pay,
5 benefits, or work privileges; prepare a negative work performance evaluation;
6 or take any other action detrimental to any employee who files a good faith
7 report in accordance with the provisions of this chapter, by reason of the
8 report. Any person making a report under this chapter shall have a civil cause
9 of action for appropriate compensatory and punitive damages against any
10 person who causes detrimental changes in the employment status of the
11 reporting party by reason of his or her making a report.

12 Sec. 97. 33 V.S.A. § 6914 is amended to read:

13 § 6914. ACCESS TO CRIMINAL RECORDS

14 ***

15 (b) An employer may ask the ~~commissioner~~ Commissioner to obtain from
16 the Vermont ~~crime information center~~ Criminal Information Center the record
17 of convictions of a person who is a current employee, volunteer, or contractor,
18 or a person to whom the employer has given a conditional offer of a contract,
19 volunteer position, or employment. The request shall be in writing and shall be
20 accompanied by a release by the current or prospective contractor or employee.

1 ~~If the person has a record of convictions, the commissioner Commissioner~~
2 shall inform the employer of the date and type of conviction.

3 * * *

4 (d) ~~The commissioner~~ Commissioners of health Disabilities, Aging, and
5 Independent Living, of Health, and of Mental Health, ~~or the commissioner's~~
6 ~~designee~~ their designees, may, for purposes related to oversight and monitoring
7 of persons who are served by or compensated with funds provided by the
8 ~~department~~ Departments of Disabilities, Aging, and Independent Living, of
9 ~~health~~ Health, and of Mental Health, may ask the Vermont ~~crime information~~
10 ~~center~~ Criminal Information Center for the record of convictions of a person
11 who is a current employee, volunteer, or contractor, or a person to whom the
12 employer has given a conditional offer of a contract, volunteer position, or
13 employment. If the individual has a record of convictions, the Vermont ~~crime~~
14 ~~information center~~ Criminal Information Center shall inform the ~~commissioner~~
15 appropriate Commissioner, or the ~~commissioner's~~ Commissioner's designee,
16 of the date and type of conviction.

17 * * *

18 (g) ~~As used in this section, "commissioner" means the commissioner of the~~
19 ~~department of disabilities, aging, and independent living or the commissioner~~
20 ~~of health, or the commissioner's designees.~~

1 ~~Sec. 98. 33 V.S.A. § 6937 is amended to read:~~

2 § 6937. SERVICE

3 A petition or ex parte temporary order or final order issued under this
4 subchapter shall be served by any sheriff or constable or any municipal or state
5 police officer in accordance with the Vermont Rules of Civil Procedure. The
6 person making service shall file a return of service with the court stating the
7 date, time, and place at which the order was delivered personally to the
8 defendant.

9 Sec. 99. 33 V.S.A. § 7106(b) is amended to read:

10 (b) Variances may be granted upon determination that:

11 * * *

12 (3) a variance will not result in less protection of the health, safety, and
13 welfare of the residents.

14 Sec. 100. 33 V.S.A. § 7108(e) is amended to read:

15 (e) Within the limits of resources available, the licensing agency may
16 provide technical assistance, education, and information to facilities to assist
17 them to come into or remain in compliance with the provisions of this chapter
18 or the rules adopted pursuant to this chapter. The failure of the licensing
19 agency to provide assistance under this subsection shall not relieve a facility
20 from its duty to comply with provisions of this chapter or the rules adopted
21 pursuant to this chapter.

1 ~~Sec. 101. 33 V.S.A. § 7116 is amended to read:~~

2 § 7116. CRIMINAL PENALTY

3 A person who knowingly violates the licensure, reporting of unlicensed
4 facilities, or confidentiality requirements of this chapter or the provisions
5 relating to placing, referring, or recommending placement of a person in an
6 unlicensed facility shall be fined not more than \$500.00 or imprisoned not
7 more than six months, or both.

8 Sec. 102. 33 V.S.A. § 7117 is amended to read:

9 § 7117. RULES

10 (a) In accordance with ~~3 V.S.A.~~ chapter 25 of Title 3, the ~~secretary of~~
11 ~~human services~~ Secretary of Human Services may adopt reasonable rules to
12 carry out the provisions of this chapter, and may prescribe minimum standards
13 of care, program, administration, and sanitation for facilities licensed under
14 this chapter.

15 (b) No later than January 1, 1997, the ~~secretary of human services~~
16 Secretary of Human Services shall adopt comprehensive rules for licensing of
17 nursing homes to include criteria deemed appropriate by the ~~secretary~~
18 Secretary, including criteria for accessibility, quality, and safety standards.

19 The rules for nursing home licensing shall:

20 (1) require that nursing facilities provide the care and services necessary
21 to help each resident attain or maintain the highest practicable physical,

1 ~~mental, and psychosocial well-being in accordance with a comprehensive~~
2 assessment and plan of care and prevailing standards of care as determined by
3 the ~~commissioner of aging and disabilities~~ Commissioner of Disabilities,
4 Aging, and Independent Living; and

5 (2) promote a standard of care that assures that the ability of each
6 resident to perform activities of daily living does not diminish unless the
7 resident's ability is diminished solely as a result of a change in the resident's
8 clinical condition.

9 Sec. 103. 33 V.S.A. § 7303 is amended to read:

10 § 7303. NOTICE TO RESIDENTS; POSTING

11 (a) A summary of the obligations of the nursing home to residents using its
12 facilities shall be written in clear language, in easily readable print, and posted
13 conspicuously in a public place on each floor of the home. This notice shall
14 also summarize the facility's grievance procedure and directions for contacting
15 the ~~ombudsman~~ Ombudsman program. The directions for contacting the
16 ~~ombudsman~~ Ombudsman program shall be written by the ~~department of~~
17 ~~disabilities, aging, and independent living~~ Department of Disabilities, Aging,
18 and Independent Living, shall include a description of the ~~ombudsman~~
19 Ombudsman program, and shall be underscored.

20 (b) A readable copy of this same notice shall be presented to each resident
21 on admission together with an oral explanation of the rights, grievance

1 ~~procedure, and directions for contacting the ombudsman Ombudsman~~

2 program.

3 ~~(c) Residents admitted to a nursing home prior to July 1, 1986 shall, within~~
4 ~~a reasonable period of time after July 1, 1986, receive a readable copy of said~~
5 ~~notice.~~

6 Sec. 104. 33 V.S.A. § 7306(a) is amended to read:

7 (a) The rights and obligations established under this chapter shall devolve
8 to a resident's reciprocal beneficiary, guardian, next of kin, sponsoring agency,
9 or representative payee (except when the facility itself is a representative
10 payee) if the resident:

11 * * *

12 Sec. 105. 33 V.S.A. § 7501 is amended to read:

13 § 7501. DEFINITIONS

14 ~~For purposes of~~ As used in this chapter:

15 (1) "Long-term care" means care or services received by an individual
16 in a long-term care facility or provided to an individual under the long-term
17 care Medicaid Section 1115 waiver.

18 * * *

19 Sec. 106. 33 V.S.A. § 7508(b) is amended to read:

20 (b) A person who takes discriminatory, disciplinary, or retaliatory action
21 against an employee, resident, or volunteer of a long-term care facility or

1 ~~agency for any communication made, or information disclosed, to aid the~~
2 ~~office~~ Office in carrying out its duties and responsibilities, unless the
3 communication or disclosure was done maliciously or without good faith, shall
4 be imprisoned not more than one year; or fined not more than \$5,000.00, or
5 both. An employee, resident, or volunteer of a long-term care facility or
6 agency may seek damages in ~~superior court~~ Superior Court against a person
7 who takes such action prohibited by this subsection.

8 Sec. 107. 33 V.S.A. § 7509(b) is amended to read:

9 (b) The ~~state ombudsman~~ State Ombudsman, consistent with the
10 requirements of the Older Americans Act, shall be able to speak on behalf of
11 the interest of individuals receiving long-term care and to carry out all duties
12 prescribed in this chapter without being made subject to any disciplinary or
13 retaliatory personnel or other action as a consequence of so doing. The
14 ~~commissioner of disabilities, aging, and independent living~~ Commissioner of
15 Disabilities, Aging, and Independent Living shall establish a committee of no
16 fewer than five persons, who represent the interests of individuals receiving
17 long-term care and who are not state employees, for the purpose of assuring
18 that the ~~state ombudsman~~ State Ombudsman is able to carry out all prescribed
19 duties without a conflict of interest. The ~~commissioner~~ Commissioner shall
20 solicit from this committee its assessment of the ~~state ombudsman's~~ State
21 Ombudsman's capacity to perform in accordance with this subsection and shall

1 ~~submit that assessment as an appendix to the report required under subdivision~~

2 7503(10) of this title. The ~~department~~ Department, in consultation with this
3 committee, shall establish rules which implement this subsection.

4 Sec. 108. 1 V.S.A. § 145 is added to read:

5 § 145. INCLUDE, INCLUDES, AND INCLUDING

6 The terms “include,” “includes,” and “including” mean that the language
7 following the term is an illustrative but inexhaustive list and shall have the
8 same meaning as though the term were followed by the words “but not
9 limited to.”

10 Sec. 109. 3 V.S.A. § 128(a) is amended to read:

11 (a) Any hospital, clinic, community mental health center, or other health
12 care institution in which a licensee performs professional services shall report
13 to the appropriate board, along with supporting information and evidence, any
14 disciplinary action taken by it or its staff, after an initial investigation or
15 hearing in which the licensee has been afforded the opportunity to participate,
16 which limits or conditions the licensee’s privilege to practice or leads to
17 suspension or expulsion from the institution. The report shall be made within
18 ten days of the date such disciplinary action was taken, regardless of whether
19 the action is the subject of a pending appeal, and in the case of a licensee who
20 is employed by, or under contract with, a community mental health center, a
21 copy of the report shall also be sent to the ~~commissioner of mental health and~~

1 ~~mental retardation Commissioner of Mental Health, Commissioner of Health,~~

2 ~~or Commissioner of Disabilities, Aging, and Independent Living, as~~

3 ~~appropriate.~~ This section shall not apply to cases of resignation, separation

4 from service, or changes in privileges which are unrelated to:

5 * * *

6 Sec. 110. 3 V.S.A. § 212 is amended to read:

7 § 212. DEPARTMENTS CREATED

8 The following administrative departments are hereby created, through the

9 instrumentality of which the ~~governor~~ Governor, under the ~~constitution~~

10 Constitution, shall exercise such functions as are by law assigned to each

11 ~~department~~ Department respectively:

12 * * *

13 (22) The ~~department of environmental conservation~~ Department of

14 Environmental Conservation

15 (23) The Department of Disabilities, Aging, and Independent Living

16 (24) The Department of Vermont Health Access.

17 Sec. 111. REPEAL

18 3 V.S.A. § 3083 (Department of Developmental and Mental Health

19 Services) is repealed.

1 ~~Sec. 112. 3 V.S.A. § 3085c is amended to read:~~

2 § 3085c. COMMISSION ON JUVENILE JUSTICE

3 (a) ~~The commission on juvenile justice~~ Commission on Juvenile Justice is
4 created as a joint venture between the ~~department of social and rehabilitation~~
5 ~~services~~ Department for Children and Families and the ~~department of~~
6 ~~corrections~~ Department of Corrections.

7 (b) ~~The commission~~ Commission shall be composed of three members:

8 (1) ~~The juvenile justice director~~ Juvenile Justice Director, who shall be
9 ~~chair~~ Chair of the commission Commission.

10 (2) ~~The commissioner of the department of social and rehabilitation~~
11 ~~services~~ Commissioner for Children and Families.

12 (3) ~~The commissioner of the department of corrections~~ Commissioner of
13 Corrections.

14 (c) ~~The commission on juvenile justice~~ Commission on Juvenile Justice
15 shall have the following duties:

16 (1) To develop a comprehensive system of juvenile justice for persons
17 under age 21 who commit delinquent or criminal acts, including utilization of
18 probation services, a range of community-based treatment, training and
19 rehabilitation programs, and secure detention and treatment programs when
20 necessary in the interests of public safety, designed with the objective of
21 preparing those persons to live in their communities as productive and mature

1 ~~adults. The program developed by the commission~~ Commission shall be
2 consistent with the policy that a successful juvenile justice system should:

3 * * *

4 (1) Provide a comprehensive aftercare component, including
5 follow-up and nonresidential ~~post-release~~ post-release services when juveniles
6 return to their families or communities.

7 * * *

8 (5) To review or participate in the development of laws, rules, and other
9 governmental initiatives which may affect individuals involved in the juvenile
10 justice system and their families.

11 (6) To provide advice regarding revisions, coordination of services,
12 accountability, and appropriations.

13 * * *

14 (d)(1) There are established within the ~~commission~~ Commission, and
15 reporting to the ~~juvenile justice director~~ Juvenile Justice Director, the
16 following positions:

17 (A) A ~~prevention specialist~~ Prevention Specialist, responsible for
18 programs intended to reduce delinquency and crime among juvenile offenders,
19 including mentoring programs, early assessments, substance abuse screening,
20 child care services, afterschool programs, and screening for problems which
21 contribute to delinquency and juvenile crime.

1 ~~(B) An alternative sanctions specialist Alternative Sanctions~~
2 Specialist, responsible for programs providing alternatives to incarceration,
3 including court diversion, probation, reparative boards, and community justice
4 programs.

5 (2) The ~~specialists~~ Specialists designated under subdivision (1) of this
6 subsection shall:

7 (A) Work with communities throughout the ~~state~~ State, and analyze
8 data and outcomes, to evaluate the efficiency and success of juvenile justice
9 programs.

10 (B) Monitor the statewide and cross-departmental consistency and
11 coordination of juvenile justice programs, and the development of the
12 comprehensive system of juvenile justice required by this section.

13 (C) Work in district offices with probation officers, case workers, and
14 other personnel of the ~~departments of social and rehabilitation services~~
15 Departments for Children and Families and of ~~corrections~~ Corrections to
16 ensure that state juvenile justice programs and case plans are administered in a
17 manner consistent with the policies of this section, and with the statutes and
18 rules pertaining to each specialty area.

19 * * *

20 Sec. 113. 4 V.S.A. § 311a(17) is amended to read:

21 (17) Adoption:

1 ~~(A) if the adopting person or persons are residents of this state State,~~
2 in the district where they reside; or

3 (B) if the adopting person or persons are nonresidents, in a court of
4 competent jurisdiction where they reside; or

5 (C) if the prospective adoptee is a minor who has been relinquished
6 or committed to the ~~department of social and rehabilitation services~~
7 Department for Children and Families or a licensed child placing agency, in
8 the district where the ~~department~~ Department or agency is located or has its
9 principal office.

10 Sec. 114. 4 V.S.A. § 464(a) is amended to read:

11 (a) Any person or other legal entity, including the ~~state~~ State, shall be
12 entitled but not required to be represented by an attorney before a magistrate.
13 Nonattorney employees of the ~~office of child support~~ Office of Child Support
14 who have been duly qualified by the ~~office of child support~~ Office of Child
15 Support may sign complaints and motions, and may participate in child support
16 hearings before a magistrate, including those arising under ~~section 5533 of~~
17 ~~Title 33~~ V.S.A. § 5116 subject to the conditions in subsections (b) and (c) of
18 this section. ~~Such~~ This participation shall not be considered the unauthorized
19 practice of law.

1 ~~Sec. 115. 7 V.S.A. § 505 is amended to read:~~

2 § 505. NOTICE TO PROHIBIT SALES TO CERTAIN PERSONS

3 The father, mother, husband, wife, child, brother, sister, guardian, or
4 employer of a person ~~or the commissioner of prevention, assistance, transition,~~
5 ~~and health access,~~ may, in writing, notify any ~~board of control commissioners~~
6 Board of Control Commissioners as defined in section 2 of this title, who may,
7 on investigation, forbid the sale or furnishing of spirituous liquor or malt ~~and~~
8 or vinous beverages or both by licensees as defined in section 2 of this title,
9 within the jurisdiction of ~~such board of control commissioners~~ that Board of
10 Control Commissioners to ~~such~~ that person.

11 Sec. 116. 12 V.S.A. § 5611 is amended to read:

12 § 5611. INTEREST OF MINORS

13 A petition on any matter affecting the interests of a minor under ~~chapter 55~~
14 ~~of Title 33 V.S.A. chapter 51, 52, or 53, 15 V.S.A. chapter 9 of Title 15, or~~
15 chapter 107 of this title shall be set down for hearing at the earliest possible
16 time and shall take precedence over all matters except older matters of the
17 same character.

18 Sec. 117. 12 V.S.A. § 7151(b) is amended to read:

19 (b) In order to become an emancipated minor by court order under this
20 chapter, a minor at the time of the order must be a person who:

- 21 (1) is 16 years of age or older but under the age of majority;

1 ~~(2) has lived separate and apart from his or her parents, custodian, or~~
2 legal guardian for three months or longer;

3 (3) is managing his or her own financial affairs;

4 (4) has demonstrated the ability to be self-sufficient in his or her
5 financial and personal affairs, including proof of employment or his or her
6 other means of support. "Other means of support" does not include general
7 assistance ~~or Aid to Needy Families with Children, Reach Up financial~~
8 assistance, or relying on the financial resources of another person who is
9 receiving such assistance or aid;

10 (5) holds a high school diploma or its equivalent or is earning passing
11 grades in an educational program approved by the court and directed ~~towards~~
12 toward the earning of a high school diploma or its equivalent;

13 (6) is not under a legal guardianship or in the custody ~~or guardianship~~ of
14 the ~~commissioner of social and rehabilitation services~~ Commissioner for
15 Children and Families;

16 (7) is not under the supervision or in the custody of the ~~commissioner of~~
17 ~~corrections~~ Commissioner of Corrections.

18 Sec. 118. 12 V.S.A. § 7154(d) is amended to read:

19 (d) If the minor has been committed to the custody or guardianship of the
20 ~~commissioner of social and rehabilitation services~~ Commissioner for Children
21 and Families, or a petition has been filed to commit the minor to the custody of

1 ~~the commissioner Commissioner, the commissioner Commissioner shall be a~~
2 party to the action under this chapter.

3 Sec. 119. 13 V.S.A. § 1311(c) is amended to read:

4 (c) Exempt from the prohibitions of this section are:

5 (1) A shelter, or the directors, agents or employees of a shelter,
6 designated by the ~~commissioner for children and families~~ Commissioner for
7 Children and Families pursuant to ~~section 5512 of Title 33~~ V.S.A. § 5304,
8 provided that the requirements of ~~subsection 5512(b) of Title 33~~ V.S.A.
9 § 5303(b) are satisfied.

10 (2) A person who has taken the child into custody pursuant to ~~section~~
11 ~~5510 of Title 33~~ V.S.A. § 5251 or 5301.

12 Sec. 120. 13 V.S.A. § 1460(a) is amended to read:

13 (a) The general public shall be excluded from hearings held in ~~superior~~
14 ~~court~~ Superior Court under this chapter where the defendant is under the age of
15 16. Only the parties, their counsel, the complainant, witnesses and other
16 persons accompanying a party for the party's assistance, and such other
17 persons as the court finds to have a proper interest in the case, or in the work of
18 the ~~court~~ Court, may be admitted by the ~~court~~ Court. In such a case, there shall
19 be no publicity given by any person to any proceedings under the authority of
20 this chapter except with the consent of the defendant and his or her parent or
21 guardian. The records in such a case shall be subject to the confidentiality

1 ~~provision of 33 V.S.A. § 5536 § 5117. Upon its own motion or the motion of a~~
2 party, the ~~court~~ Court may open the hearing for good cause shown, in
3 consideration of relevant factors, including the likelihood that a court would
4 make a determination that charges against the defendant with respect to the
5 underlying crime on which the hate-motivated crime injunction is based should
6 be heard in ~~criminal division of the superior court~~ the Criminal Division of the
7 Superior Court pursuant to 33 V.S.A. chapter 52 of Title 33.

8 Sec. 121. 13 V.S.A. § 4822 is amended to read:

9 § 4822. FINDINGS AND ORDER; MENTALLY ILL PERSONS

10 (a) If the court finds that ~~such~~ the person is a person in need of treatment or
11 a patient in need of further treatment as defined in 18 V.S.A. § 7101, the court
12 shall issue an order of commitment directed to the ~~commissioner of~~
13 ~~developmental and mental health services~~ Commissioner of Mental Health,
14 which shall admit the person to the care and custody of the ~~department of~~
15 ~~developmental and mental health services~~ Department of Mental Health for an
16 indeterminate period. In any case involving personal injury or threat of
17 personal injury, the committing court may issue an order requiring a court
18 hearing before a person committed under this section may be discharged from
19 custody.

20 (b) ~~Such~~ An order of commitment issued pursuant to this section shall have
21 the same force and effect as an order issued under 18 V.S.A. §§ 7611–7622.

1 ~~and persons a person committed under such an this order shall have the same~~
2 status, and the same rights, including the right to receive care and treatment, to
3 be examined and discharged, and to apply for and obtain judicial review of
4 ~~their cases~~ his or her case, as ~~persons a person~~ ordered committed under
5 18 V.S.A. §§ 7611–7622.

6 * * *

7 (d) The court may continue the hearing provided in subsection (c) of this
8 section for a period of 15 additional days upon a showing of good cause.

9 (e) If the court determines that commitment shall no longer be necessary, it
10 shall issue an order discharging the patient from the custody of the ~~department~~
11 ~~of developmental and mental health services~~ Department of Mental Health.

12 (f) The court shall issue its findings and order not later than 15 days from
13 the date of hearing.

14 Sec. 122. 13 V.S.A. § 5236(a) is amended to read:

15 (a) The determination whether a person covered by sections 5231-5234 of
16 this title is a needy person shall be deferred until his or her first appearance in
17 court or in a suit for payment or reimbursement under section 5255 of this title,
18 whichever occurs earlier. Thereafter, the court shall determine, with respect to
19 each proceeding, whether the person is a needy person. For purposes of this
20 section, an appeal is a separate proceeding. The determination of need, for
21 purposes of an appeal, shall be based on a separate application submitted on or

1 ~~after the date of the order appealed from, except that an appeal from a~~
2 proceeding under 33 V.S.A. chapter 51, 52 of Title 33, or 53 is not a separate
3 proceeding and does not require a separate application.

4 Sec. 123. 13 V.S.A. § 5318(b) is amended to read:

5 (b) If a victim is a minor or is incapacitated, incompetent, or deceased, a
6 family member of the victim may exercise the rights of the victim under
7 sections 5305, 5308-5317, and 7006 of this title; 28 V.S.A. §§ 205, 252, and
8 507; and 33 V.S.A. § ~~5529a~~ 5233.

9 Sec. 124. 15 V.S.A. § 901(c) is amended to read:

10 (c) In an action under this section against a minor's parents, nothing
11 contained in the record of any juvenile proceeding involving the minor shall be
12 admissible as evidence except as provided in 33 V.S.A. § ~~5536~~ 5117.

13 Sec. 125. 15 V.S.A. § 1140(b) is amended to read:

14 (b) The ~~commission~~ Commission shall comprise 17 members, consisting of
15 the following:

16 (1) the ~~attorney general,~~ Attorney General or his or her designee;

17 (2) the ~~commissioner of the department of health,~~ Commissioner of
18 Health or his or her designee;

19 (3) the ~~commissioner of social and rehabilitation services,~~

20 Commissioner for Children and Families or his or her designee;

- 1 ~~(4) the commissioner of the department of corrections, Commissioner of~~
2 ~~Corrections or his or her designee;~~
- 3 (5) the commissioner of the department of public safety, Commissioner
4 of Public Safety or his or her designee;
- 5 (6) the ~~chief medical examiner,~~ Chief Medical Examiner or his or her
6 designee;
- 7 (7) a state's attorney with experience prosecuting domestic violence
8 cases, appointed by the ~~executive director of the Vermont state's attorneys'~~
9 ~~association~~ Executive Director of the Vermont State's Attorneys' Association;
- 10 (8) the ~~defender general,~~ Defender General or his or her designee;
- 11 (9) a member of the Vermont ~~coalition of batterer intervention services~~
12 Coalition of Batterer Intervention Services;
- 13 (10) a member of the Vermont ~~network against domestic violence and~~
14 ~~sexual assault~~ Network Against Domestic Violence and Sexual Assault;
- 15 (11) a representative of the Vermont ~~council on domestic violence~~
16 Council on Domestic Violence;
- 17 (12) a representative of local law enforcement, appointed by the
18 ~~governor~~ Governor;
- 19 (13) a victim or survivor of domestic violence, appointed by the
20 Vermont ~~network against domestic violence and sexual assault~~ Network
21 Against Domestic Violence and Sexual Assault;

1 ~~(14) a physician, appointed by the governor Governor;~~

2 (15) the ~~executive director~~ Executive Director of the Vermont ~~criminal~~
3 ~~justice training council~~ Criminal Justice Training Council or his or her
4 designee;

5 (16) the ~~commissioner of mental health~~ Commissioner of Mental Health
6 or his or her designee; and

7 (17) one judge, appointed by the ~~chief justice~~ Chief Justice of the
8 Vermont ~~supreme court~~ Supreme Court.

9 Sec. 126. 15 V.S.A. § 1151(5) is amended to read:

10 (5) "Law enforcement agency" means the ~~department of public safety~~
11 Department of Public Safety, a municipal police department, a sheriff's
12 department, the ~~attorney general's office~~ Attorney General's Office, a state's
13 attorney's office, or certified law enforcement officers of the ~~department of~~
14 ~~motor vehicles~~ Department of Motor Vehicles, the ~~agency of natural resources~~
15 Agency of Natural Resources, or the ~~department of liquor control~~ Department
16 of Liquor Control. "Law enforcement agency" shall also mean the ~~department~~
17 ~~for children and families~~ Department for Children and Families when engaged
18 in:

19 (A) the investigation of child abuse and neglect;

1 ~~(B) the delivery of services to families and children with whom the~~

2 ~~department~~ Department is working ~~with~~ pursuant to the provisions of

3 33 V.S.A. ~~chapter 55~~ chapters 51, 52, and 53; or

4 (C) the performance of the ~~department's~~ Department's

5 responsibilities pursuant to an interstate compact to which the ~~state~~ State is a

6 party.

7 Sec. 127. 15A V.S.A. § 1-101(7) is amended to read:

8 (7) "Department" means the ~~department of social and rehabilitation~~

9 ~~services~~ Department for Children and Families.

10 Sec. 128. DELETED

11 Sec. 129. 18 V.S.A. § 1751 is amended to read:

12 § 1751. DEFINITIONS

13 * * *

14 (b) ~~For the purposes of~~ As used in this chapter:

15 * * *

16 (3) "Child care facility" means a child care facility or family child care

17 home as defined in 33 V.S.A. ~~§ 4902~~ § 3511 that was constructed prior to

18 1978.

19 * * *

1 ~~Sec. 130. 18 V.S.A. § 1754(a) is amended to read:~~

2 (a) Beginning January 1, 1994, the ~~commissioner of health~~ Commissioner
3 of Health shall prepare and distribute clear and simple printed materials
4 describing the dangers of lead poisoning, the need for parents to have their
5 child screened, how to have a child tested, and recommended nutrition and
6 housekeeping practices. The ~~commissioner~~ Commissioner shall work with
7 persons and organizations involved in occupations that may involve lead-based
8 paint hazards or childhood lead poisoning to distribute the materials to their
9 clients, patients, students, or customers, such as realtors, subcontractors,
10 apartment owners, public housing authorities, pediatricians, family
11 practitioners, nurse clinics, child clinics, other health care providers, child care
12 and preschool operators, and kindergarten teachers. The ~~commissioner~~
13 Commissioner shall also identify those points in time or specific occasions
14 when members of the public are in contact with public agencies and lead might
15 be an issue, such as building permits, home renovations, ~~and the ANFC~~
16 ~~and WIC program, and~~ programs established under 33 V.S.A. chapters, 10, 11,
17 and 12, and make the materials available on these occasions.

18 Sec. 130a. § 18 V.S.A. § 1758(c) is amended to read:

19 (c) The ~~department of for children and families~~ Department for Children
20 and Families shall identify all child care facilities in which the owners have

1 ~~completed essential maintenance practices or lead hazard control measures and~~
2 provide the findings to the ~~department~~ Department annually.

3 Sec. 131. 18 V.S.A. chapter 94 is added to read:

4 CHAPTER 94. DIVISION OF ALCOHOL AND
5 DRUG ABUSE PROGRAMS

6 § 4801. DECLARATION OF POLICY

7 (a) It is the policy of the State of Vermont that alcoholism and alcohol
8 abuse are correctly perceived as health and social problems rather than
9 criminal transgressions against the welfare and morals of the public.

10 (b) The General Assembly therefore declares that:

11 (1) alcoholics and alcohol abusers shall no longer be subjected to
12 criminal prosecution solely because of their consumption of alcoholic
13 beverages or other behavior related to consumption which is not directly
14 injurious to the welfare or property of the public, and

15 (2) alcoholics and alcohol abusers shall be treated as sick persons and
16 shall be provided adequate and appropriate medical and other humane
17 rehabilitative services congruent with their needs.

18 § 4802. DEFINITIONS

19 As used in this chapter:

20 (1) "Alcoholic" means a person suffering from the condition of
21 alcoholism.

1 ~~(2) "Alcoholism" means addiction to the drug alcohol. It is~~
2 ~~characterized by:~~

3 ~~(A) chronic absence of control by the drug user over the frequency or~~
4 ~~the volume of his or her alcohol intake; and~~

5 ~~(B) inability of the drug user to consistently moderate his or her~~
6 ~~drinking practices in spite of the onset of a variety of consequences deleterious~~
7 ~~to his or her health.~~

8 ~~(3) "Approved substance abuse treatment program" means a treatment~~
9 ~~program which is approved by the Secretary as qualified to provide treatment~~
10 ~~for substance abuse.~~

11 ~~(4) "Client" means a person who is provided treatment services by an~~
12 ~~approved substance abuse treatment program, substance abuse crisis team, or~~
13 ~~designated substance abuse counselor.~~

14 ~~(5) "Designated substance abuse counselor" means a person approved~~
15 ~~by the Secretary to evaluate and treat substance abusers, pursuant to the~~
16 ~~provisions of this chapter.~~

17 ~~(6) "Detoxification" means the planned withdrawal of an individual~~
18 ~~from a state of acute or chronic intoxication under qualified supervision and~~
19 ~~with or without the use of medication. Detoxification is monitoring and~~
20 ~~management of the physical and psychological effects of withdrawal, for the~~

1 ~~purpose of assuring safe and rapid return of the individual to normal bodily and~~
2 ~~mental functioning.~~

3 (7) "Incapacitated" means that a person, as a result of his or her use of
4 alcohol or other drugs, is in a state of intoxication or of mental confusion
5 resulting from withdrawal such that the person:

6 (A) appears to need medical care or supervision by approved
7 substance abuse treatment personnel, as defined in this section, to assure his or
8 her safety; or

9 (B) appears to present a direct active or passive threat to the safety of
10 others.

11 (8) "Intoxicated" means a condition in which the mental or physical
12 functioning of an individual is substantially impaired as a result of the presence
13 of alcohol or other drugs in his or her system.

14 (9) "Law enforcement officer" means a law enforcement officer
15 certified by the Vermont Criminal Justice Training Council as provided in
16 20 V.S.A. §§ 2355–2358 or appointed by the Commissioner of Public Safety
17 as provided in 20 V.S.A. § 1911.

18 (10) "Licensed hospital" means a hospital licensed under chapter 43 of
19 this title.

20 (11) "Protective custody" means a civil status in which an incapacitated
21 person is detained by a law enforcement officer for the purposes of:

1 ~~(A) assuring the safety of the individual or the public, or both; and~~

2 (B) assisting the individual to return to a functional condition.

3 (12) "Secretary" means the Secretary of Human Services or the
4 Secretary's designee.

5 (13) "Substance abuse crisis team" means an organization approved by
6 the Secretary to provide emergency treatment and transportation services to
7 substance abusers pursuant to the provisions of this chapter.

8 (14) "Substance abuser" means anyone who drinks alcohol or consumes
9 other drugs to an extent or with a frequency which impairs or endangers his or
10 her health or the health and welfare of others.

11 (15) "Treatment" means the broad range of medical, detoxification,
12 residential, outpatient, aftercare, and follow-up services which are needed by
13 substance abusers and may include a variety of other medical, social,
14 vocational, and educational services relevant to the rehabilitation of these
15 persons.

16 § 4803. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS;

17 PER DIEM

18 (a) The Alcohol and Drug Abuse Council is established within the Agency
19 of Human Services to promote the reduction of problems arising from alcohol
20 and drug abuse.

21 (b) The Council shall consist of 11 members:

1 ~~(1) the Secretary of Human Services, Commissioner of Public Safety,~~
2 Secretary of Education, Commissioner of Liquor Control, and Commissioner
3 of Motor Vehicles, or their designees;

4 (2) one member shall be a member of a mental health agency who shall
5 be appointed by the Governor; and

6 (3) five members shall be appointed by the Governor of which every
7 consideration shall be given, if possible, to equal geographic apportionment.
8 One of these members shall be a certified practicing teacher and one of these
9 members shall be a school administrator.

10 (c) The term of office of members appointed pursuant to subdivisions
11 (b)(2) and (3) of this section shall be three years.

12 (d) The Secretary of Human Services or designee shall serve as
13 Chairperson.

14 (e) All members shall be voting members.

15 (f) At the expiration of the term of an appointed member or in the event of
16 a vacancy during an unexpired term, the new member shall be appointed in the
17 same manner as his or her predecessor. Members of the Council may be
18 reappointed.

19 (g) Each member of the Council not otherwise receiving compensation
20 from the State of Vermont or any political subdivision thereof shall be entitled

1 ~~to receive per diem compensation of \$30.00 for each day. Each member shall~~
2 be entitled to his or her actual and necessary expenses.

3 § 4804. ADMINISTRATIVE SUPPORT

4 The Agency of Human Services shall provide the Council with such
5 administrative support as is necessary for it to accomplish the purposes of this
6 chapter.

7 § 4805. DUTIES

8 The Council shall:

9 (1) advise the Governor as to the nature and extent of alcohol and drug
10 abuse problems and the programs necessary to understand, prevent, and
11 alleviate those problems;

12 (2) make recommendations to the Governor for developing a
13 comprehensive and coordinated system for delivering effective programs,
14 including any appropriate reassignment of responsibility for such programs;

15 (3) provide for coordination and communication among the regional
16 alcohol and drug abuse councils, state agencies and departments, providers,
17 consumers, consumer advocates, and interested citizens;

18 (4) jointly, with the State Board of Education, develop educational and
19 preventive programs; and

20 (5) develop a five-year plan for effectively providing preventive,
21 education, and treatment services to the Vermont public.

~~§ 4806. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS~~

~~(a) The Division of Alcohol and Drug Abuse Programs shall plan, operate, and evaluate a consistent, effective program of substance abuse programs. All duties, responsibilities, and authority of the Division shall be carried out and exercised by and within the Department of Health.~~

~~(b) The Division shall be responsible for the following services:~~

~~(1) prevention and intervention;~~

~~(2) licensure of alcohol and drug counselors;~~

~~(3) project CRASH schools; and~~

~~(4) alcohol and drug treatment.~~

~~(c) Under the direction of the Commissioner of Health, the Deputy Commissioner of Alcohol and Drug Abuse Programs shall review and approve all alcohol and drug programs developed or administered by any state agency or department, except for alcohol and drug education programs developed by the Agency of Education in conjunction with the Alcohol and Drug Abuse Council pursuant to 16 V.S.A. § 909.~~

~~(d) Any federal or private funds received by the State for purposes of subdivision (b)(4) of this section shall be in the budget of and administered by the Department of Health.~~

~~(e) Under subdivision (b)(4) of this section, the Commissioner of Health may contract with the Secretary of State for provision of adjudicative services~~

1 ~~of one or more administrative law officers and other investigative, legal, and~~
2 administrative services related to licensure and discipline of alcohol and drug
3 counselors.

4 § 4807. AUTHORITY AND ACCOUNTABILITY FOR ALCOHOLISM
5 SERVICES; RULES FOR ACCEPTANCE INTO TREATMENT

6 (a) The Secretary shall have the authority and accountability for providing
7 or arranging for the provision of a comprehensive system of alcoholism
8 prevention and treatment services.

9 (b) All state funds appropriated specifically for the prevention and
10 treatment of alcoholism and any federal or private funds which are received by
11 the State for these purposes shall be in the budget of and be administered by a
12 single governmental unit designated by the Secretary. This provision does not
13 apply to the programs of the Department of Corrections.

14 (c) The Secretary shall adopt rules and standards under 3 V.S.A. chapter 25
15 for the implementation of the provisions of this chapter. In establishing rules
16 regarding admissions to alcohol treatment programs, the Secretary shall adhere
17 to the following guidelines:

18 (1) A client shall be initially assigned or transferred to outpatient
19 treatment, unless he or she is found to require medical treatment,
20 detoxification, or residential treatment.

1 ~~(2) A person shall not be denied treatment solely because he or she has~~
2 withdrawn from treatment against medical advice on a prior occasion or
3 because he or she has relapsed after earlier treatment.

4 (3) An individualized treatment plan shall be prepared and maintained
5 on a current basis for each client.

6 (4) Provision shall be made for a continuum of coordinated treatment
7 services, so that a person who leaves a program or a form of treatment shall
8 have available and use other appropriate treatment.

9 § 4808. TREATMENT AND SERVICES

10 (a) When a law enforcement officer encounters a person who, in the
11 judgment of the officer, is intoxicated as defined in section 4802 of this title,
12 the officer may assist the person, if he or she consents, to his or her home, to
13 an approved substance abuse treatment program, or to some other mutually
14 agreeable location.

15 (b) When a law enforcement officer encounters a person who, in the
16 judgment of the officer, is incapacitated as defined in section 4802 of this title,
17 the person shall be taken into protective custody by the officer. The officer
18 shall transport the incapacitated person directly to an approved substance abuse
19 treatment program with detoxification capabilities or to the emergency room of
20 a licensed general hospital for treatment, except that if a substance abuse crisis
21 team or a designated substance abuse counselor exists in the vicinity and is

1 ~~available, the person may be released to the team or counselor at any location~~
2 mutually agreeable between the officer and the team or counselor. The period
3 of protective custody shall end when the person is released to a substance
4 abuse crisis team, a designated substance abuse counselor, a clinical staff
5 person of an approved substance abuse treatment program with detoxification
6 capabilities, or a professional medical staff person at a licensed general
7 hospital emergency room. The person may be released to his or her own
8 devices if, at any time, the officer judges him or her to be no longer
9 incapacitated. Protective custody shall in no event exceed 24 hours.

10 (c) If an incapacitated person is taken to an approved substance abuse
11 treatment program with detoxification capabilities and the program is at
12 capacity, the person shall be taken to the nearest licensed general hospital
13 emergency room for treatment.

14 (d) A person judged by a law enforcement officer to be incapacitated and
15 who has not been charged with a crime may be lodged in protective custody in
16 a secure facility not operated by the Department of Corrections for up to
17 24 hours or until judged by the person in charge of the facility to be no longer
18 incapacitated, if and only if:

19 (1) the person refuses to be transported to an appropriate facility for
20 treatment or, if once there, refuses treatment or leaves the facility before he or

1 ~~she is considered by the responsible staff of that facility to be no longer~~

2 incapacitated; or

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

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

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

17 (g) Notwithstanding subsection (d) of this section, a person under 18 years
18 of age who is judged by a law enforcement officer to be incapacitated and who
19 has not been charged with a crime shall not be held at a lockup or community
20 correctional center. If needed treatment is not readily available, the person
21 shall be released to his or her parent or guardian. If the person has no parent or

1 ~~guardian in the area, arrangements shall be made to house him or her according~~
2 to the provisions of 33 V.S.A. chapter 53. The official in charge of an adult
3 jail or lockup shall notify the Director of the Office of Drug and Alcohol
4 Abuse Programs of any person under the age of 18 brought to an adult jail or
5 lockup pursuant to this chapter.

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

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

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

16 § 4809. INCARCERATION FOR INEBRIATION PROHIBITED

17 A person who has not been charged with a crime shall not be incarcerated in
18 a facility operated by the Department of Corrections on account of the person's
19 inebriation.

1 ~~Sec. 132. 18 V.S.A. § 5087 is amended to read:~~

2 § 5087. ESTABLISHMENT OF BIRTH INFORMATION NETWORK

3 * * *

4 (c) ~~The commissioner of health shall refer to the report submitted to the~~
5 ~~general assembly by the birth information council, pursuant to section 5086 of~~
6 ~~this title, for the purpose of establishing guiding principles for the research and~~
7 ~~decision-making necessary for the development of the birth information~~
8 ~~network. [Repealed.]~~

9 * * *

10 Sec. 133. 18 V.S.A. § 7628 is amended to read:

11 § 7628. PROTOCOL

12 ~~The department of mental health~~ Department of Mental Health shall
13 develop and adopt by rule a strict protocol to ensure the health, safety, dignity,
14 and respect of patients subject to administration of involuntary psychiatric
15 medications in any designated hospital. This protocol shall be followed by all
16 designated hospitals administering involuntary psychiatric medications.

17 Sec. 134. 18 V.S.A. § 9471(2) is amended to read:

18 (2) "Health insurer" is defined by section 9402 of this title and shall
19 include:

20 * * *

1 ~~(D) Medicaid, the Vermont health access plan Health Access Plan,~~
2 ~~Vermont Rx VermontRx, and any other public health care assistance program.~~

3 Sec. 135. 18 V.S.A. § 9504(g) is amended to read:

4 (g) No member of the ~~board~~ Board shall have any direct or knowing
5 affiliation or contractual relationship with any tobacco company, its affiliates,
6 its subsidiaries, or its parent company. ~~All board members~~ Each board
7 member shall file a conflict of interest statement, stating that he or she has no
8 such affiliation or contractual relationship.

9 Sec. 136. 18 V.S.A. § 9505 is amended to read:

10 § 9505. GENERAL POWERS AND DUTIES

11 The ~~board~~ Board shall have all the powers necessary and convenient to
12 carry out and effectuate the purposes and provisions of this section, and shall:

13 * * *

14 (5) review and make recommendations ~~to~~ regarding the overall plan and
15 any memorandum of understanding developed jointly by the ~~department of~~
16 ~~health~~ Department of Health and ~~department of education~~ Agency of
17 Education for school-based programs funded through the tobacco program
18 fund;

19 (6) review and make recommendations ~~to~~ regarding enforcement
20 activities administered by the ~~department of liquor control~~ Department of
21 Liquor Control in accordance with the provisions of this chapter;

1 ~~(7) review and advise any state agency, on applications for funds~~

2 contributed from any outside sources that are designated for purposes of
3 reducing tobacco use;

4 (8) In collaboration with the ~~agency~~ Agency and ~~department~~

5 Department, ~~annually~~ organize a minimum of two public meetings by

6 September 15 of each year, to receive public input and advice for setting

7 program priorities and establishing an annual program budget;

8 (9) conduct jointly with the ~~secretary~~ Secretary a review of the

9 ~~department's~~ Department's proposed annual budget for the program, including

10 funds contributed from any outside sources that are designated for purposes of

11 reducing tobacco use, and submit independent recommendations to the

12 ~~governor~~ Governor, ~~joint fiscal committee~~ Joint Fiscal Committee, and

13 ~~committee on appropriations of the house of representatives and the senate~~

14 House and Senate Committees on Appropriations by October 1 of each year;

15 (10) propose to the ~~department~~ Department strategies for program

16 coordination and collaboration with other state agencies, ~~nonprofit~~

17 ~~organizations dedicated to anti-tobacco activities~~, health care providers and

18 organizations, community and school groups, nonprofit organizations

19 dedicated to anti-tobacco activities, and other nonprofit organizations;

20 * * *

1 ~~Sec. 137. 18 V.S.A. § 9506 is amended to read:~~

2 § 9506. ALLOCATION SYSTEM

3 (a) In determining the allocation of funds available for the purposes of this
4 chapter, the ~~department~~ Department and the ~~board~~ Board shall consider, ~~but~~
5 ~~not be limited to, the following~~ all relevant factors, including:

6 * * *

7 (b) The ~~department's~~ Department's and ~~board's~~ Board's allocation system
8 shall include a method, developed jointly, that evaluates the need for, and
9 impact and quality of the activities proposed by eligible applicants, including,
10 ~~where~~ if appropriate, measuring the outcomes of the project through reductions
11 in adult and youth smoking rates.

12 Sec. 138. 18 V.S.A. § 9507 is amended to read:

13 § 9507. ANNUAL REPORT

14 (a) ~~By~~ On or before January 15 of each year, the ~~board~~ Board shall submit
15 a report concerning its activities under this chapter to the ~~governor~~ Governor
16 and the ~~general assembly which~~ General Assembly. ~~The report~~ shall include,
17 to the extent possible, the following:

18 * * *

19 Sec. 139. 21 V.S.A. § 1314(e) is amended to read:

20 (e)(1) Subject to such restrictions as the ~~board~~ Board may by regulation
21 prescribe, information from unemployment insurance records may be made

1 ~~available to any public officer or public agency of this or any other state~~ State
2 or the federal government dealing with the administration or regulation of
3 relief, public assistance, unemployment compensation, a system of public
4 employment offices, wages and hours of employment, workers' compensation,
5 misclassification or miscoding of workers, occupational safety and health, or a
6 public works program for purposes appropriate to the necessary operation of
7 those offices or agencies. The ~~commissioner~~ Commissioner may also make
8 information available to colleges, universities, and public agencies of the ~~state~~
9 State for use in connection with research projects of a public service nature,
10 and to the Vermont ~~economic progress council~~ Economic Progress Council
11 with regard to the administration of 32 V.S.A. chapter 151, subchapter 11E of
12 ~~chapter 151 of Title 32~~; but no person associated with those institutions or
13 agencies may disclose that information in any manner ~~which~~ that would reveal
14 the identity of any individual or employing unit from or concerning whom the
15 information was obtained by the ~~commissioner~~ Commissioner.

16 (A) The ~~department of labor~~ Department of Labor shall participate in
17 the income and eligibility verification procedures under ~~Federal Public Law~~
18 98-369 (The Deficit Reduction Act of 1984) the Deficit Reduction Act of
19 1984, Pub. L. No. 98-369, which provides for the exchange of information
20 among state agencies administering ~~federally assisted programs for AFDC~~
21 funded with federal monies provided under the Temporary Assistance for

1 ~~Needy Families (TANF) block grant, Medicaid, Food Stamps Supplemental~~
2 Nutrition Assistance Program (SNAP), SSI, Unemployment Compensation,
3 and any other state program under a plan approved under Title I, X, XIV, or
4 XVI of the Social Security Act.

5 (B) ~~The department of labor~~ Department of Labor is designated as
6 the Vermont agency for the collection of wage records on workers covered
7 under this chapter, as required by ~~PL 98-369~~ the Deficit Reduction Act of
8 1984, Pub. L. No. 98-369.

9 (2)(A)(i) ~~The department of labor~~ Department of Labor shall disclose,
10 upon request, to officers or employees of any state or local child support
11 enforcement agency; any wage information or other information material to the
12 location of an individual, the individual's assets, or the individual's place of
13 employment or other source of income contained in the ~~department's~~
14 Department's unemployment compensation claim records with respect to an
15 identified individual which is contained in those records.

16 (ii) The term "state or local child support enforcement agency"
17 means any agency of a state or political subdivision thereof operating pursuant
18 to a plan described in ~~section~~ Section 454 of the Social Security Act, which has
19 been approved by the Secretary of Health and Human Services under part D,
20 Title IV of the Social Security Act.

1 ~~(B) The requesting agency shall agree that information provided~~
2 under this subsection is to be used only for the following purposes:

3 (i) establishing and collecting child support obligations from, and
4 locating, individuals owing such obligations which are being enforced pursuant
5 to a plan described in ~~section~~ Section 454 of the Social Security Act ~~which that~~
6 has been approved by the Secretary of Health and Human Services under part
7 D, Title IV of the Social Security Act; and

8 (ii) establishing parentage and expediting procedures relating to
9 establishing parentage pursuant to ~~section~~ Section 466(c)(1) of the Social
10 Security Act as added by section 325(a)(2) of the Personal Responsibility and
11 Work Opportunity Reconciliation Act of 1996 (Public Law 104-193).

12 (3)(A) The ~~department of labor~~ Department of Labor shall disclose,
13 upon request, to officers and employees of the U.S. Department of Agriculture
14 and any state ~~food stamp~~ agency, with respect to an identified individual, any
15 of the following information which is contained in its records:

16 (i) wage information;

17 (ii) whether the individual is receiving, has received, or has made
18 application for unemployment compensation and the amount of any
19 compensation being received or to be received by such individual;

20 (iii) the current or most recent home address of the individual; and

1 ~~(iv) whether the individual has refused an offer of employment,~~
2 and if so, a description of the employment offered and the terms, conditions,
3 and rate of pay therefor.

4 (B) The term "state ~~food stamp~~ agency" means any agency described
5 in ~~section (3)(n)(1) of the Food Stamp Act of 1977~~ 7 U.S.C. § 2012(n) which
6 administers the ~~food stamp program~~ Supplemental Nutrition Assistance
7 Program established under ~~such~~ that act.

8 (C) The requesting agency shall agree that such information shall be
9 used only for purposes of determining the applicant's eligibility for benefits, or
10 the amount of benefits, under the ~~food stamp program~~ Supplemental Nutrition
11 Assistance Program established under ~~the Food Stamp Act of 1977~~ 7 U.S.C.
12 chapter 51.

13 (D) The information shall not be released unless the requesting
14 agency agrees to reimburse the costs involved for furnishing such information.

15 (E) In addition to the requirements of this subdivision, all other
16 requirements with respect to confidentiality of information obtained in the
17 administration of this chapter and the sanctions imposed for improper
18 disclosure of information obtained in the administration of this chapter shall
19 apply to the use of such information by the officers and employees of any ~~food~~
20 ~~stamp~~ state agency or the U.S. Department of Agriculture.

21 * * *

1 ~~Sec. 140. 21 V.S.A. § 1367b is amended to read:~~

2 § 1367b. ~~FOOD STAMP~~ SUPPLEMENTAL NUTRITION ASSISTANCE

3 PROGRAM INTERCEPT OF UNEMPLOYMENT BENEFITS

4 (a) An individual filing a new claim for unemployment compensation shall,
5 at the time of filing such claim, disclose whether ~~or not~~ he or she owes an
6 uncollected ~~over-issuance~~ overissuance ~~(as defined in section 13(c)(1) of the~~
7 ~~Food Stamp Act of 1977)~~ of food stamp coupons Supplemental Nutrition
8 Assistance Program benefits as defined in 7 U.S.C. § 2022(c)(1). The
9 ~~commissioner~~ Commissioner shall notify the state ~~food stamp~~ agency
10 administering the Supplemental Nutrition Assistance Program enforcing such
11 obligation of any individual who discloses that he or she owes an uncollected
12 ~~over-issuance~~ overissuance of food stamp coupons Supplemental Nutrition
13 Assistance Program benefits and who is determined to be eligible for
14 unemployment compensation.

15 (b) Notwithstanding the provisions of sections 1366 and 1367 of this title,
16 the ~~commissioner~~ Commissioner shall deduct and withhold from any
17 unemployment compensation payable to an individual who owes an
18 uncollected ~~over-issuance~~ overissuance of food stamp coupons Supplemental
19 Nutrition Assistance Program Benefits:

20 (1) the amount specified by the individual to the ~~commissioner~~
21 Commissioner to be deducted and withheld under this section; or

1 ~~(2) the amount (if any), if any, determined pursuant to an agreement~~
2 ~~submitted to the state food stamp agency administering the Supplemental~~
3 ~~Nutrition Assistance Program under section 13(c)(3)(A) of the Food Stamp Act~~
4 ~~of 1977 7 U.S.C. § 2022(c)(3)(A); or~~

5 (3) any amount otherwise required to be deducted and withheld from
6 unemployment compensation pursuant to ~~section 13(c)(3)(B) of the Food~~
7 ~~Stamp Act of 1977 7 U.S.C. § 2022(c)(3)(B).~~

8 (c) Any amount deducted and withheld under subsection (b) of this section
9 shall be paid by the ~~commissioner~~ Commissioner to the appropriate state ~~food~~
10 ~~stamp~~ agency administering the Supplemental Nutrition Assistance Program.

11 (d) Any amount deducted and withheld under subsection (b) of this section
12 shall for all purposes be treated as if it were paid to the individual as
13 unemployment compensation and paid by such individual to the state ~~food~~
14 ~~stamp~~ agency administering the Supplemental Nutrition Assistance Program as
15 repayment of the individual's uncollected ~~over-issuance~~ overissuance of ~~food~~
16 ~~stamp coupons~~ Supplemental Nutrition Assistance Program benefits.

17 (e) ~~For purposes of~~ As used in this section, the term "unemployment
18 compensation" means any compensation payable under this chapter, and any
19 federal benefit payments made pursuant to agreements with the ~~United States~~
20 U.S. Department of Labor.

1 ~~(f) This section applies only if arrangements have been made for~~
2 reimbursement by the state ~~food stamp~~ agency administering the Supplemental
3 Nutrition Assistance Program for the administrative costs incurred by the
4 ~~commissioner~~ Commissioner under this section which are attributable to the
5 repayment of uncollected ~~over issuances~~ overissuances of ~~food stamp coupons~~
6 Supplemental Nutrition Assistance Program benefits to the state agency
7 administering the Supplemental Nutrition Assistance Program.

8 (g) Any deduction and withholding authorized by this section shall not
9 exceed 25 percent of the individual's weekly benefit amount.

10 Sec. 141. 23 V.S.A. § 304c is amended to read:

11 § 304c. MOTOR VEHICLE REGISTRATION PLATES: BUILDING
12 BRIGHT SPACES FOR BRIGHT FUTURES FUND

13 (a) The ~~commissioner~~ Commissioner shall, upon application, issue
14 ~~“building bright spaces for bright futures fund,”~~ “Building Bright Spaces for
15 Bright Futures Fund,” hereinafter referred to as ~~“the bright futures fund,”~~ “the
16 Bright Futures Fund,” registration plates for use only on vehicles registered at
17 the pleasure car rate, on trucks registered for less than 26,001 pounds, on
18 vehicles registered to state agencies under section 376 of this title, and
19 excluding vehicles registered under the International Registration Plan. Plates
20 so acquired shall be mounted on the front and rear of the vehicle. The
21 ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles shall utilize

1 ~~the graphic design recommended by the commissioner of social and~~
2 ~~rehabilitation services~~ Commissioner for Children and Families for the special
3 plates to enhance the public awareness of the ~~state's~~ State's interest in
4 supporting children's services. Applicants shall apply on forms prescribed by
5 the ~~commissioner of motor vehicles,~~ Commissioner of Motor Vehicles and
6 shall pay an initial fee of \$20.00 in addition to the annual fee for registration.
7 In following years, in addition to the annual registration fee, the holder of a
8 ~~bright futures fund~~ Bright Futures Fund plate shall pay a renewal fee of \$20.00.
9 The ~~commissioner~~ Commissioner shall adopt rules under 3 V.S.A. chapter 25
10 to implement the provisions of this subsection.

11 * * *

12 (c) Renewal fees collected under subsection (a) of this section shall be
13 allocated as follows:

14 (1) \$17.00 to the ~~department for children and families~~ Department for
15 Children and Families for deposit in the ~~bright futures fund~~ Bright Futures
16 Fund in 33 V.S.A. § 3531.

17 (2) \$3.00 to the ~~transportation fund~~ Transportation Fund.

18 * * *

19 Sec. 142. 24 V.S.A. § 4412(5) is amended to read:

20 (5) Child care. A "family child care home or facility" as used in this
21 subdivision means a home or facility where the owner or operator is to be

1 ~~licensed or registered by the state State for child care. A family child care~~
2 home serving six or fewer children shall be considered to constitute a
3 permitted single-family residential use of property. A family child care home
4 serving no more than six full-time children and four part-time children, as
5 defined in ~~subdivision 33 V.S.A. § 4902(3)(A)~~ § 3511(7), shall be considered
6 to constitute a permitted use of property but may require site plan approval
7 based on local zoning requirements. A family child care facility serving more
8 than six full-time and four part-time children may, at the discretion of the
9 municipality, be subject to all applicable municipal bylaws.

10 Sec. 143. 26 V.S.A. chapter 28, subchapter 4 is added to read:

11 Subchapter 4. Sexual Assault Nurse Examiners

12 § 1621. DEFINITION

13 As used in this subchapter, "SANE" means sexual assault nurse examiner.

14 § 1622. SANE BOARD

15 (a) The SANE Board is created for the purpose of regulating sexual assault
16 nurse examiners.

17 (b) The SANE Board shall be composed of the following members:

18 (1) the Executive Director of the Vermont State Nurses Association or
19 designee;

20 (2) the President of the Vermont Association of Hospitals and Health
21 Systems;

- 1 ~~(3) the Director of the Vermont Forensic Laboratory or designee;~~
- 2 (4) the Director of the Vermont Network Against Domestic and Sexual
3 Violence or designee;
- 4 (5) an attorney with experience prosecuting sexual assault crimes,
5 appointed by the Attorney General;
- 6 (6) the Executive Director of the Vermont Center for Crime Victim
7 Services or designee;
- 8 (7) a law enforcement officer assigned to one of Vermont's special units
9 of investigation, appointed by the Commissioner of Public Safety;
- 10 (8) a law enforcement officer employed by a municipal police
11 department, appointed by the Executive Director of the Vermont Criminal
12 Justice Training Council;
- 13 (9) three sexual assault nurse examiners, appointed by the Attorney
14 General;
- 15 (10) a physician whose practice includes the care of victims of sexual
16 assault, appointed by the Vermont Medical Society;
- 17 (11) a pediatrician whose practice includes the care of victims of sexual
18 assault, appointed by the Vermont Chapter of the American Academy of
19 Pediatrics;
- 20 (12) the Coordinator of the Vermont Victim Assistance Program or
21 designee;

1 ~~(13) the President of the Vermont Alliance of Child Advocacy Centers~~
2 ~~or designee;~~

3 ~~(14) the Chair of the Vermont State Board of Nursing or designee; and~~

4 ~~(15) the Commissioner for Children and Families or designee.~~

5 § 1623. SANE PROGRAM CLINICAL COORDINATOR

6 A grant program shall be established by the Vermont Center for Crime
7 Victim Services, subject to available funding, to fund a clinical coordinator
8 position for the purpose of staffing the SANE program. The position shall be
9 contracted through the Vermont Network Against Domestic and Sexual
10 Violence. The clinical coordinator shall consult with the SANE board in
11 performing the following duties:

12 (1) overseeing the recruitment and retention of SANEs in the State of
13 Vermont;

14 (2) administering a statewide training program, including:

15 (A) the initial SANE certification training;

16 (B) ongoing training to ensure currency of practice for SANEs; and

17 (C) advanced training programs as needed;

18 (3) providing consultation and technical assistance to SANEs and
19 hospitals regarding the standardized sexual assault protocol; and

20 (4) providing training and outreach to criminal justice and
21 community-based agencies as needed.

§ 1624. SANE BOARD; DUTIES

(a) A person licensed under this chapter may obtain a specialized certification as a sexual assault nurse examiner if he or she demonstrates compliance with the requirements for specialized certification as established by the SANE Board by rule.

(b) The SANE Board shall adopt the following by rule:

(1) educational requirements for obtaining specialized certification as a sexual assault nurse examiner and statewide standards for the provision of education;

(2) continuing education requirements and clinical experience necessary for maintenance of the SANE specialized certification;

(3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses;

(4) a system of monitoring for compliance; and

(5) processes for investigating complaints, revoking certification, and appealing decisions of the Board.

(c) The SANE board may investigate complaints against a sexual assault nurse examiner and may revoke certification as appropriate.

1 ~~Sec. 144. 26 V.S.A. chapter 62 is added to read:~~

2 CHAPTER 62. ALCOHOL AND DRUG ABUSE COUNSELORS

3 § 3231. DEFINITIONS

4 As used in this chapter:

5 (1) "Alcohol and drug abuse counselor" means a person who engages in
6 the practice of alcohol and drug abuse counseling for compensation.

7 (2) "Commissioner" means the Commissioner of the Department of
8 Health.

9 (3) "Deputy Commissioner" means the Deputy Commissioner of the
10 Division of Alcohol and Drug Abuse Programs.

11 (4) "Disciplinary action" means any action taken by the administrative
12 law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensee or
13 applicant based on a finding of unprofessional conduct by the licensee or
14 applicant. "Disciplinary action" includes issuance of warnings and all
15 sanctions, including denial, suspension, revocation, limitation, or restriction of
16 licenses and other similar limitations.

17 (5) "Practice of alcohol and drug abuse counseling" means the
18 application of methods, including psychotherapy, which assist an individual or
19 group to develop an understanding of alcohol and drug abuse dependency
20 problems and to define goals and plan actions reflecting the individual's or

1 ~~group's interests, abilities, and needs as affected by alcohol and drug abuse~~
2 dependency problems and comorbid conditions.

3 (6) "Supervision" means the oversight of a person for the purposes of
4 teaching, training, or clinical review by a professional in the same area of
5 specialized practice.

6 § 3232. PROHIBITION; PENALTIES

7 (a) No person shall perform any of the following acts:

8 (1) Practice or attempt to practice alcohol and drug abuse counseling
9 without a valid license issued in accordance with this chapter, except as
10 otherwise provided in section 3233 of this title.

11 (2) Use in connection with the person's name any letters, words, or
12 insignia indicating or implying that the person is an alcohol and drug abuse
13 counselor, unless the person is licensed in accordance with this chapter.

14 (b) A person who violates any of the provisions of this section shall be
15 subject to the penalties provided in 3 V.S.A. § 127(c).

16 § 3233. EXEMPTIONS

17 The provisions of subdivision 3232(a)(1) of this chapter, relating to the
18 practice of alcohol and drug abuse counseling, shall not apply to:

19 (1) The activities and services of a rabbi, priest, minister, Christian
20 Science practitioner, or clergy of any religious denomination or sect when
21 engaging in activities that are within the scope of the performance of the

1 ~~person's regular or specialized ministerial duties and for which no separate~~
2 charge is made, or when these activities are performed, with or without charge,
3 for or under the auspices or sponsorship, individually or in conjunction with
4 others, of an established and legally recognizable church, denomination, or sect
5 and when the person rendering services remains accountable to the established
6 authority of that church, denomination, or sect.

7 (2) The activities and services of a person licensed, certified, or
8 registered under other laws of this State while acting within the scope of his or
9 her profession or occupation, provided the person does not hold himself or
10 herself out to the public as possessing a license issued pursuant to this chapter.

11 (3) The activities and services of a student intern or trainee in alcohol
12 and drug abuse counseling who is pursuing a course of study in an accredited
13 institution of higher education or a training course approved by the Director,
14 provided these activities are performed under supervision of and constitute a
15 part of an approved course of study.

16 (4) The activities and services of approved alcohol and drug abuse
17 counselors who are working under the supervision of a licensed alcohol and
18 drug abuse counselor.

19 (5) A person acting as a member of a voluntary group of individuals
20 who offer peer support to each other in recovering from an addiction.

§ 3234. COORDINATION OF PRACTICE ACTS

Notwithstanding any provision of law to the contrary, a person may practice psychotherapy when acting within the scope of a license granted under this chapter, provided he or she does not hold himself or herself out as a practitioner of a profession for which he or she is not licensed.

§ 3235. DEPUTY COMMISSIONER; DUTIES

(a) The Deputy Commissioner shall:

(1) Provide general information to applicants for licensure as alcohol and drug abuse counselors.

(2) Administer fees collected under this chapter.

(3) Administer examinations.

(4) Explain appeal procedures to licensees and applicants for licensure.

(5) Receive applications for licensure under this chapter; issue and renew licenses; and revoke, suspend, reinstate, or condition licenses as ordered by an administrative law officer.

(6) Contract with the Office of Professional Regulation to adopt and explain complaint procedures to the public, manage case processing, investigate complaints, and refer adjudicatory proceedings to an administrative law officer.

1 ~~(b) The Commissioner of Health, with the advice of the Deputy~~
2 ~~Commissioner, may adopt rules necessary to perform the Deputy~~
3 ~~Commissioner's duties under this section.~~

4 § 3236. ELIGIBILITY

5 To be eligible for licensure as an alcohol and drug abuse counselor, an
6 applicant shall:

7 (1) Have received a master's degree or doctorate in a human services
8 field from an accredited educational institution, including degrees in
9 counseling, social work, psychology, or in an allied mental health field, or a
10 master's degree or higher in a health care profession regulated under this title
11 or Title 33, after having successfully completed a course of study with course
12 work, including theories of human development, diagnostic and counseling
13 techniques, and professional ethics, and which includes a supervised clinical
14 practicum.

15 (2) Have been awarded an approved counselor credential from the
16 division of alcohol and drug abuse programs in accordance with rules adopted
17 by the Commissioner.

18 § 3237. APPLICATION

19 An individual may apply for a license under this chapter by filing, with the
20 Deputy Commissioner, an application provided by the Deputy Commissioner.

1 ~~The application shall be accompanied by the required fees and evidence of~~
2 ~~eligibility.~~

3 § 3238. BIENNIAL RENEWALS

4 (a) Licenses shall be renewed every two years upon payment of the
5 required fee, provided the person applying for renewal completes at least 40
6 hours of continuing education, approved by the Deputy Commissioner, during
7 the preceding two-year period. The Deputy Commissioner shall establish, by
8 rule, guidelines and criteria for continuing education credit.

9 (b) Biennially, the Deputy Commissioner shall forward a renewal form to
10 each license holder. Upon receipt of the completed form and the renewal fee,
11 the Deputy Commissioner shall issue a new license.

12 (c) Any application for renewal of a license which has expired shall be
13 accompanied by the renewal fee and a reinstatement fee. A person shall not be
14 required to pay renewal fees for years during which the license was lapsed.

15 (d) The Commissioner of Health may, after notice and opportunity for
16 hearing, revoke a person's right to renew a license if the license has lapsed for
17 five or more years.

18 § 3239. UNPROFESSIONAL CONDUCT

19 The following conduct and the conduct set forth in 3 V.S.A. § 129a, by a
20 person authorized to provide alcohol and drug abuse services under this
21 chapter or an applicant for licensure, constitutes unprofessional conduct:

1 ~~(1) Violation of any provision of this chapter or rule adopted under this~~
2 ~~chapter.~~

3 ~~(2) Failing to use a complete title in professional activity.~~

4 ~~(3) Conduct which evidences moral unfitness to practice alcohol and~~
5 ~~drug abuse counseling.~~

6 ~~(4) Negligent, incompetent, or wrongful conduct in the practice of~~
7 ~~alcohol and drug abuse counseling.~~

8 ~~(5) Harassing, intimidating, or abusing a client.~~

9 ~~(6) Agreeing with any other person or organization or subscribing to any~~
10 ~~code of ethics or organizational bylaws when the intent or primary effect of~~
11 ~~that agreement, code, or bylaw is to restrict or limit the flow of information~~
12 ~~concerning alleged or suspected unprofessional conduct to the Director.~~

13 § 3240. REGULATORY FEE FUND

14 (a) An Alcohol and Drug Counselor Regulatory Fee Fund is created. All
15 counselor licensing and examination fees received by the Division shall be
16 deposited into the Fund and used to offset the costs incurred by the Division
17 for these purposes and for the costs of investigations and disciplinary
18 proceedings.

19 (b) To ensure that revenues derived by the Division are adequate to offset
20 the cost of regulation, the Commissioner of Health and the Deputy

1 ~~Commissioner shall review fees from time to time and present proposed fee~~
2 ~~changes to the General Assembly.~~

3 § 3241. FEES

4 In addition to the fees otherwise authorized by law, the Deputy
5 Commissioner may charge the following fees:

6 (1) Late renewal penalty, \$25.00 for a renewal submitted less than 30
7 days late. Thereafter, the Deputy Commissioner may increase the late renewal
8 penalty by \$5.00 for every additional month or fraction of a month, provided
9 that the total penalty for a late renewal shall not exceed \$100.00.

10 (2) Reinstatement of revoked or suspended license, \$20.00.

11 (3) Replacement of license, \$20.00.

12 (4) Verification of license, \$20.00.

13 (5) An examination fee established by the Deputy Commissioner, which
14 shall be no greater than the costs associated with examinations.

15 (6) Licenses granted under rules adopted pursuant to 3 V.S.A.
16 § 129(a)(10), \$20.00.

17 (7) Application for registration, \$75.00.

18 (8) Application for licensure or certification, \$100.00.

19 (9) Biennial renewal, \$135.00.

20 (10) Limited temporary license or work permit, \$50.00.

1 ~~Sec. 145. 28 V.S.A. § 3(1) is amended to read:~~

2 (1) "Child" means any person:

3 (A) Charged with having committed a delinquent act as defined in
4 ~~section 5502 of Title 33 V.S.A. § 5102~~ or adjudicated a delinquent and
5 committed to the custody of the ~~commissioner~~; Commissioner.

6 (B) Charged with being or adjudicated unmanageable as defined in
7 ~~section 5502 of Title 33 by 33 V.S.A. § 5102 (3)(C) and (D)~~, and committed to
8 the custody of the ~~commissioner of social and rehabilitation services~~
9 Commissioner for Children and Families and subsequently transferred to the
10 custody of the ~~commissioner~~; Commissioner.

11 ~~(C) Who has been admitted to the Weeks School upon application~~
12 ~~pursuant to sections 1151 and 1152 of this title;~~

13 Sec. 146. 28 V.S.A. § 702(a) is amended to read:

14 (a) The ~~commissioner~~ Commissioner may transfer any inmate committed
15 to his or her custody between any of the correctional facilities except that the
16 ~~commissioner~~ Commissioner shall not have the authority to transfer a child, as
17 defined in this title, to any facility except in accordance with ~~section 5530 of~~
18 Title 33 V.S.A. § 5293.

1 ~~Sec. 147. 28 V.S.A. § 1003 is amended to read:~~

2 § 1003. COMMITMENTS

3 When process is delivered to an officer to serve, requiring the officer to
4 commit a person to jail to await examination or trial before a ~~district or~~
5 ~~superior court~~ District or Superior Court, if the order for commitment was
6 made within the limits of a town, incorporated village, or a county maintaining
7 a lockup, that person may be committed for not more than 72 hours, unless the
8 time is extended by court order, to the lockup and be subject to the restraints
9 and entitled to the privileges provided by law for persons confined in a
10 correctional facility. A person under 18 years of age charged or convicted of a
11 misdemeanor may not be detained in a lockup used to house inmates over 18
12 years of age, except as provided in ~~section 5530 of Title 33~~ V.S.A. § 5293.

13 Sec. 148. 28 V.S.A. § 1101 is amended to read:

14 § 1101. POWERS AND RESPONSIBILITIES OF THE COMMISSIONER
15 REGARDING JUVENILE SERVICES

16 The ~~commissioner~~ Commissioner is charged with the following powers and
17 responsibilities regarding the administration of juvenile services:

18 (1) To provide appropriate, separate facilities for the custody and
19 treatment of children committed to his or her custody in accordance with the
20 laws of the ~~state~~ State;

1 ~~(2) To supervise and administer and oversee the maintenance of the~~
2 facilities, in accordance with the various powers and responsibilities
3 established in the office of ~~commissioner~~ Commissioner by this title, by
4 33 V.S.A. chapter ~~55~~ 52, and by 3 V.S.A. §§ 3052 and 3053;

5 (3) To advise, upon request and in his or her discretion, local, state, and
6 federal officials and public and private agencies and lay groups on the needs
7 for and possible methods of the reduction and prevention of delinquency and
8 the treatment of delinquents;

9 (4) To cooperate with other agencies whose services deal with the care
10 and treatment of delinquents to the end that children who are committed to the
11 custody of the ~~commissioner~~ Commissioner may wherever possible be assisted
12 to a successful adjustment outside institutional care;

13 (5) To cooperate with other agencies in surveying, developing, and
14 utilizing the resources of a community as a means of ~~combatting~~ combating the
15 problem of juvenile delinquency and of effectuating rehabilitation;

16 * * *

17 Sec. 149. STATUTORY REVISION

18 The Legislative Council, in its statutory revision capacity under 2 V.S.A.
19 § 424, is authorized and directed to make such amendments to the Vermont
20 Statutes Annotated as are necessary to reflect the provisions of Sec. 108 of this
21 act (adding 1 V.S.A. § 145), including amending uniform laws and interstate

1 ~~compacts to the extent allowed under the terms of such laws and compacts.~~

2 Such changes may also be made when new legislation is proposed or when
3 there is a republication of a volume of the Vermont Statutes Annotated.

4 Sec. 150. INTERPRETATION

5 The technical amendments in this act shall not supersede substantive
6 changes contained in other acts passed by the General Assembly. Where
7 possible, the amendments in this act shall be interpreted to be supplemental to
8 other amendments to the same sections of statute; to the extent the provisions
9 conflict, the substantive changes in other acts shall take precedence over the
10 technical changes in this act.

11 Sec. 151. EFFECTIVE DATES

12 (a) Secs. 17 (repeal of alcohol and drug abuse provisions in 33 V.S.A.
13 chapters 7 and 8) and 131 (enacting alcohol and drug abuse provisions in
14 18 V.S.A. chapter 94) of this act shall take effect on July 1, 2013.

15 (b) Sec. 108 (1 V.S.A. § 145) of this act shall take effect on passage and
16 shall apply to all statutes in effect as of such date and to all statutes enacted,
17 amended, or otherwise effective on or after such date.

18 (c) The remaining sections of this act, including this section, shall take
19 effect on passage.

Sec. 1. 33 V.S.A. chapter 1 is redesignated to read:

~~CHAPTER 1. DEPARTMENT OF PREVENTION, ASSISTANCE,
TRANSITION, AND HEALTH ACCESS FOR CHILDREN AND FAMILIES~~

Sec. 2. 33 V.S.A. § 101 is amended to read:

~~§ 101. SOCIAL WELFARE POLICY OF THE STATE OF VERMONT~~

It is the policy of the State of Vermont that:

(1) Its social and child welfare programs shall provide assistance and benefits to persons of the State in proven need thereof and eligible for such assistance and benefits under the provisions of this title;

(2) It is the purpose of its social and child welfare laws to establish and support programs which contribute to the prevention of dependency and social maladjustment; and contribute to the rehabilitation and protection of persons of the State.

(3) Assistance and benefits shall be administered promptly, with due regard for the preservation of family life, and without restriction of individual rights or discrimination on account of race, religion, political affiliation, or place of residence within the State;

(4) Assistance and benefits shall be so administered as to maintain and encourage dignity, self-respect, and self-reliance. It is the legislative intent that assistance granted shall be adequate to maintain a reasonable standard of health and decency based on current cost of living indices. Notwithstanding this subdivision, the Department will amend rules that establish new maximum

Reach Up grant amounts only when the General Assembly has taken affirmative action to increase or decrease the Reach Up financial assistance appropriation.

(5) The programs of the Department for Children and Families shall be designed to strengthen family life for the care and protection of children; to assist and encourage the use by any family of all available personal and reasonable community resources to this end; and to provide substitute care of children only when the family, with the use of available resources, is unable to provide the necessary care and protection to assure the right of any child to sound health and to normal physical, mental, spiritual, and moral development.

Sec. 3. 33 V.S.A. § 102 is amended to read:

§ 102. DEFINITIONS AND CONSTRUCTION

(a) ~~Unless otherwise expressly provided, the words and phrases in this chapter mean~~ As used in this chapter:

(1) ~~Aid:~~ “Aid” means financial assistance.

(2) ~~Assistance (when “Assistance,” when not modified by an adjective):~~ adjective, means general assistance or public assistance, or both.

(3) ~~Benefits:~~ “Benefits” means aid or commodities furnished under chapter 17 of this title.

(4) ~~Commissioner: the Commissioner for Children and Families~~
“Commissioner” means the Commissioner for Children and Families.

(5) ~~Department: the Department for Children and Families~~
“Department” means the Department for Children and Families.

(6) ~~Federal department (or federal agency):~~ “Federal department” or
“federal agency” means a department or agency of the United States of
America.

(7) ~~Guardian:~~ “Guardian” means a legal guardian appointed by a
Probate Division of the Superior Court or by a court in a divorce or other
proceeding or action.

(8) ~~Public assistance:~~ “Public assistance” means aid provided by the
Department under Title IV, XVI, or XIX of the Social Security Act.

(9) ~~Regulation:~~ “Regulation” means a rule or regulation.

(10) ~~Secretary:~~ “Secretary” means the Secretary of the federal
Department of Health and Human Services.

(11) ~~Social Security Act:~~ “Social Security Act” means the federal
Social Security Act and rules and regulations made thereunder, as amended at
any time.

~~(12) [Deleted.]~~

~~(13) [Deleted.]~~

(b) The laws relating to ~~the programs of~~ the Department for Children and Families and its programs shall be construed liberally to carry out the policies stated in this chapter.

Sec. 4. 33 V.S.A. § 103 is amended to read:

§ 103. COMPOSITION OF DEPARTMENT

The Department for Children and Families, created ~~under~~ pursuant to 3 V.S.A. §§ 212 and 3084, shall consist of the Commissioner for Children and Families and all divisions, councils, boards, committees, and offices within the Department.

Sec. 5. 33 V.S.A. § 104 is amended to read:

§ 104. FUNCTION AND POWERS OF DEPARTMENT

(a) The ~~department~~ Department shall administer all laws specifically assigned to it for administration.

(b) In addition to other powers vested in it by law, the ~~department~~ Department may:

(1) Provide ~~aid required~~ for the administration of the following programs of and services:

(A) Aid to the aged, blind, and disabled.

(B) ~~Aid to needy families with children~~ Reach Up financial assistance and support services.

(C) ~~Community work and training.~~ [Repealed.]

(D) ~~Federal supplementary~~ Supplemental Nutrition Assistance Program benefits.

(E) General assistance.

(F) Medical assistance.

(G) Public assistance programs funded with state general funds or the Temporary Assistance to Needy Families (TANF) block grant.

(2) Cooperate with the appropriate federal agencies in receiving, to the extent available, federal funds in support of programs which the ~~department~~ Department administers.

(3) Submit plans and reports, make regulations, and in other respects comply with the provisions of the ~~social security act~~ Social Security Act which pertain to programs administered by the ~~department~~ Department.

(4) Receive and disburse funds which are assigned, donated, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance ~~or~~ benefits, or social services. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(5) Receive in trust and expend in accordance with the provisions of the trust, funds, and property assigned, donated, devised, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance ~~or~~ benefits, or

~~social services.~~ ~~Trust funds accepted by the department~~ Department shall be safely invested by the ~~state treasurer~~ State Treasurer. Real property received in trust may, at the discretion of the ~~commissioner~~ Commissioner, be administered by the ~~department of buildings and general services of the agency of administration~~ Department of Buildings and General Services of the Agency of Administration. ~~Neither this nor the preceding~~ This subdivision shall not be construed to require the ~~department~~ Department to accept funds or trusts, when the ~~commissioner~~ Commissioner, with the approval of the ~~governor~~ Governor, considers it in the best interests of the ~~state~~ State to refuse them.

(6) Aid and assist in charitable work as in the judgment of the ~~commissioner~~ Commissioner will best promote the general welfare of the ~~state~~ State.

(7) Visit all institutions, homes, places, and establishments soliciting public support and located in the ~~state~~, State which are devoted to or used for the care of needy persons.

(8) Visit all institutions, homes, places, and establishments providing room, board, or care to persons receiving social services or benefits from the Department.

(9) Supervise and control children under its care and custody and provide for their care, maintenance, and education.

(c) The Department for Children and Families, in cooperation with the Department of Corrections, shall have the responsibility to administer a comprehensive program, developed by the Commission on Juvenile Justice established pursuant to 3 V.S.A. § 3085c, for youthful offenders and children who commit delinquent acts, including utilization of probation services; of a range of community-based and other treatment, training, and rehabilitation programs; and of secure detention and treatment programs when necessary in the interests of public safety, designed with the objective of preparing those children to live in their communities as productive and mature adults.

Sec. 6. 33 V.S.A. § 105 is amended to read:

§ 105. COMMISSIONER; APPOINTMENT, TERM, DUTIES, AND
POWERS

(a) ~~Repealed.~~

~~(b)~~ The Commissioner ~~Commissioner~~ may exercise the powers and perform duties required for effective administration of the ~~department~~ Department, and ~~he or she~~ shall determine the policies of the ~~department~~ Department.

~~(e)~~(b) In addition to other duties imposed by law, the ~~commissioner~~ Commissioner shall:

(1) Administer the laws assigned to the ~~department~~ Department.

(2) Fix standards and issue regulations necessary to administer those laws and for the custody and preservation of records of the ~~department~~

Department. Those regulations shall contain provisions restricting the use or disclosure of information contained in the records to purposes directly connected with the administration of the ~~department~~ Department. As used in this subdivision, the word "records" includes records, papers, files, and communications.

(3) Appoint all necessary assistants, prescribe their duties, and issue regulations necessary to assure that the assistants shall hold merit system status while in the employ of the ~~department~~ Department, unless otherwise specifically provided by law.

~~(4) [Repealed.]~~

~~(d)(c)~~ The commissioner, Commissioner or the governor Governor, whenever the federal law so provides, may cooperate with the federal government in providing relief and work relief, and community work and training programs in the ~~state~~ State.

~~(e)(d)~~ The commissioner Commissioner, with the approval of the ~~attorney general~~ Attorney General, may enter into reciprocal agreements with social and child welfare agencies in other states in matters relating to social welfare, children, and families.

(e) The Commissioner shall ensure the provision of services to children and adolescents with a severe emotional disturbance in coordination with the Secretary of Education and the Commissioners of Mental Health and of

Disabilities, Aging, and Independent Living in accordance with the provisions of chapter 43 of this title.

(f) Notwithstanding any other provision of law, the ~~commissioner~~ Commissioner may delegate to any appropriate employee of the Department any of the administrative duties and powers imposed on him or her by law, with the exception of the duties and powers enumerated in this section. The delegation of authority and responsibility shall not relieve the ~~commissioner~~ Commissioner of accountability for the proper administration of the ~~department~~ Department.

(g) The Commissioner may publicly disclose findings or information about any case of child abuse or neglect that has resulted in the fatality or near fatality of a child, including information obtained under chapter 49 of this title, unless the State's Attorney or Attorney General who is investigating or prosecuting any matter related to the fatality requests the Commissioner to withhold disclosure, in which case the Commissioner shall not disclose any information until completion of any criminal proceedings related to the fatality or until the State's Attorney or Attorney General consents to disclosure, whichever occurs earlier.

Sec. 7. 33 V.S.A. § 111(b) is amended to read:

(b) A person shall not:

(1) Publish, use, disclose, or divulge any of those records for purposes not directly connected with the administration of programs of the ~~department~~ Department, or contrary to regulations issued by the ~~commissioner~~ Commissioner; or

* * *

Sec. 8. REPEAL

33 V.S.A. § 113 (desertion and nonsupport, information from governmental entities and public utilities) is repealed.

Sec. 9. REPEAL

33 V.S.A. § 115 (access to financial records of deposit accounts of individuals who owe overdue child support) is repealed.

Sec. 10. 33 V.S.A. § 116 is added to read:

§ 116. STATE-PLACED STUDENTS

To enable a school district to determine if a student is a State-placed student, as defined in 16 V.S.A. § 11(a)(28), the Commissioner for Children and Families shall immediately notify the superintendent of schools for the school district educating the student if the parent or parents of a student under the care and custody of the Commissioner move from or into that school district.

Sec. 11. REPEAL

33 V.S.A. § 132 (remedies; penalty) is repealed.

Sec. 12. 33 V.S.A. § 141 is amended to read:

§ 141. FRAUD

(a) A person who knowingly fails, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used ~~in~~ ~~making a determination as to the qualifications of~~ to determine whether that person is qualified to receive aid or benefits under a State or federally funded assistance program; or who knowingly fails to disclose a change in circumstances in order to obtain or continue to receive ~~under a program~~ aid or benefits to which he or she is not entitled or in an amount larger than that to which he or she is entitled; or who knowingly aids and abets another person in the commission of any such act shall be punished as provided in section 143 of this title.

(b) A person who knowingly uses, transfers, acquires, traffics, alters, forges, or possesses; or who knowingly attempts to use, transfer, acquire, traffic, alter, forge, or possess; or who knowingly aids and abets another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of a ~~food stamp, food stamp identification~~ Supplemental Nutrition Assistance Program benefit card, authorization for the purchase of ~~food stamps~~ Supplemental Nutrition Assistance Program benefits, certificate of eligibility for medical services, or ~~Medicaid~~ State health care program identification card in a manner not authorized by law shall be punished as

provided in section 143 of this title. For the purposes of this section, the value of an authorization to purchase food stamps shall be the difference between the coupon allotment and the amount paid by the recipient for that allotment.

(c) A person who administers a State or federally funded assistance program who fraudulently misappropriates, attempts to misappropriate, or aids and abets in the misappropriation of a ~~food stamp~~ Supplemental Nutrition Assistance Program benefit, authorization for ~~food stamps~~ Supplemental Nutrition Assistance Program benefits, ~~food stamp~~ a Supplemental Nutrition Assistance Program benefit identification card, certificate of eligibility for prescribed medicine, ~~Medicaid~~ State health care program identification card, or assistance from any other State or federally funded program with which he or she has been entrusted or of which he or she has gained possession by virtue of his or her position; or who knowingly misappropriates, attempts to misappropriate, or aids or abets in the misappropriation of funds given in exchange for ~~food stamps~~ Supplemental Nutrition Assistance Program benefits shall be punished as provided in section 143 of this title.

(d) A person who knowingly files, attempts to file, or aids and abets in the filing of a claim for services to a recipient of benefits under a State or federally funded assistance program for services which were not rendered; or who knowingly files a false claim or a claim for unauthorized items or services under such a program; or who knowingly bills the recipient of benefits under

such a program or his or her family for an amount in excess of that provided for by law or regulation; or who knowingly fails to credit the State or its agent for payments received from Social Security, insurance, or other sources; or who in any way knowingly receives, attempts to receive, or aids and abets in the receipt of unauthorized payment as provided herein shall be punished as provided in section 143 of this title.

* * *

Sec. 13. 33 V.S.A. chapter 1, subchapter 6 is added to read:

Subchapter 6. Licensing and Registration

§ 151. LICENSING AND REGISTRATION; VIOLATIONS

This subchapter shall apply to all licenses, registrations, and applications for licenses and registrations which the Commissioner or the Department may issue or grant, unless otherwise specifically provided.

(1) The Commissioner shall adopt rules governing applications for and issuance, revocation, term, and renewal of licenses and registrations. In the regulations, he or she may prescribe standards and conditions to be met, records to be kept, and reports to be filed. Licenses and registration shall be for a term of one year from issuance unless otherwise prescribed by regulation.

(2) Premises covered by a license or registration may be visited and inspected by the Department at reasonable hours. A person who accepts a

license or registration shall permit visits and inspections and examinations of the records he or she is required to keep.

(3) A license or registration may be revoked for cause after hearing and may be suspended in situations which immediately imperil the health, safety, or well-being of persons in the care of the licensee or registrant.

(4) Before a license is granted, the Department shall visit and inspect the premises for which the license is requested and make further inquiry and investigation as the Commissioner may direct. Before a family child care home registration is granted, the Department shall make inquiry and investigation. Inquiry and investigation may include a visit to and inspection of the premises for which the registration is requested. Further inquiry and investigation may be made as the Commissioner may direct.

(5) Whenever the Attorney General has reason to believe that a facility required by the Commissioner to be licensed or registered is being operated without such license or registration, the Attorney General may bring an action for equitable relief in the name of the State against the operator of such facility to restrain such operation. The action may be brought in the Superior Court of the county in which the facility is located. The Court is authorized to grant equitable relief to restrain and prevent such operation.

(6) Any person who violates the terms of an injunction or restraining order issued under subdivision (5) of this section shall forfeit and pay to the

State a civil penalty of not more than \$100.00 for each violation. In such cases, the Attorney General acting in the name of the State may petition for recovery of such civil penalty.

(7) Whenever the Department determines that a licensed child care facility or registered family child care home has violated a health or safety rule, the facility or home shall post the Department's notice of violation in a conspicuous place in the facility or home. In the case of a serious violation, as defined by the Department by rule, the facility or home shall also notify by mail a person responsible for the welfare of each child attending that facility or home. A serious violation shall include violation of group size and staffing requirements and any violation involving a situation which immediately imperils the health, safety, or well-being of persons in the care of the licensee or registrant.

§ 152. ACCESS TO RECORDS

(a) The Commissioner may obtain from the Vermont Crime Information Center the record of convictions of any person to the extent the Commissioner has determined by rule that such information is necessary to regulate a facility or individual subject to regulation by the Department. The Commissioner shall first notify the person whose record is being requested.

(b) The owner or operator of a facility licensed or registered by the Department may ask the Commissioner for the record of convictions and the

record of substantiated reports of child abuse of a current employee or a person to whom the owner or operator has given a conditional offer of employment. The request shall be in writing and shall be accompanied by a release signed by the current or prospective employee. The owner or operator shall inform the current or prospective employee that he or she has the right to appeal the accuracy and completeness of the record. Upon receiving a request under this subsection, the Commissioner shall ask the Vermont Crime Information Center for the record of convictions of the current or prospective employee.

(c) If the person has a record of convictions, the Commissioner shall provide the owner or operator with a copy of the record. If the person has a record of substantiated reports of child abuse, the Commissioner shall inform the requesting owner or operator that such record exists.

(d) Information released to an owner or operator under this section shall not be released or disclosed by the owner or operator to any other person. Release or disclosure of such information by an owner or operator may result in the loss of the license or registration.

(e) As used in this section:

(1) "Commissioner" means the Commissioner for Children and Families or the Commissioner's designee.

(2) "Employee" shall include volunteers.

(3) “Substantiated reports of child abuse” means reports of child abuse substantiated under section 4915 of this title.

(4) “Volunteer” means an individual who, without compensation, provides services through a public or private organization.

Sec. 14. REPEAL

33 V.S.A. chapter 3 (Department for Children and Families) is repealed.

Sec. 15. 33 V.S.A. chapter 5 is redesignated to read:

*CHAPTER 5. DEPARTMENT OF DISABILITIES, AGING, AND
INDEPENDENT LIVING PROGRAMS*

Sec. 16. 33 V.S.A. § 502 is amended to read:

§ 502. DEFINITIONS

As used in this chapter:

* * *

(7) “Older persons” ~~mean~~ means individuals who have attained the age of 60 years.

(8) “Persons with disabilities” ~~mean~~ means individual Vermonters who have functional limitations by virtue of physical, psychiatric, cognitive, or psychological conditions.

* * *

Sec. 17. REPEAL

33 V.S.A. chapters 7 (Office of Alcohol and Drug Abuse) and 8 (Alcohol and Drug Abuse Counselors) are repealed.

Sec. 18. 33 V.S.A. § 900 is amended to read:

§ 900. DEFINITIONS

Unless otherwise required by the context, the words and phrases in this chapter shall be defined as follows:

(1) “Agency” means Agency of Human Services.

(2) “Director” means the Director of Rate Setting.

(3) “Division” means the Division of Rate Setting.

(4) ~~“State-assisted” means a person eligible for or receiving benefits administered by or in coordination with the Agency.~~

(5) “Provider” means any entity, excluding a hospital or a physician, providing services to State-assisted persons pursuant to a contract or other form of agreement with the State.

(6)(5) “Secretary” means the Secretary of Human Services.

(6) “State-assisted” means a person eligible for or receiving benefits administered by or in coordination with the Agency.

Sec. 19. 33 V.S.A. § 904(b) is amended to read:

(b) No payment shall be made to any nursing home, on account of any State-assisted person, unless the nursing home is certified to participate in the

State/federal medical assistance program and has in effect a provider agreement.

Sec. 20. 33 V.S.A. § 905(a) is amended to read:

(a) Consistent with the objectives established under section 901 of this title, the Division shall develop a payment system based on cost categories established for each nursing home. The system shall include no fewer than the following three cost categories:

(1) Direct care costs, which refer, at a minimum, to nursing salaries and nursing assistant wages, fringe benefits, and payroll taxes associated therewith.

(2) Indirect costs, which refer to all operating costs not established under subdivision (1) of this subsection.

(3) Property and related costs.

(4) At the discretion of the Director, the cost categories referred to in subdivisions ~~(1)-(3)~~ (1) through (3) of this subsection may be subdivided. Facilities may also be divided into groups, based on considerations such as size or other appropriate determinants within each cost category or subdivision thereof.

Sec. 21. 33 V.S.A. § 908(b) is amended to read:

(b) The ~~division~~ Division shall have the power to examine books and accounts of any nursing home or other provider caring for ~~state-assisted~~

State-assisted persons, to subpoena witnesses and documents, to administer oaths to witnesses, and to examine them on all matters of which the ~~division~~ Division has jurisdiction.

Sec. 22. 33 V.S.A. § 910 is amended to read:

§ 910. AVAILABILITY OF PAYMENT FOR NURSING HOME SERVICES

In addition to any other reductions required by this act, the ~~secretary~~ Secretary may, with 90 days' notice to the nursing home, reduce the number of days of nursing home service or the number of nursing home beds for which payments are available under the ~~state/federal~~ State/federal medical assistance program in order to meet ~~state~~ State budgetary goals, provided that the standards of care, required by section 7117 of this title and by rule, ~~adopted by January 1, 1997,~~ are maintained.

Sec. 23. 33 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter:

(1) "Able-to-work" means to be free of any physical, emotional, or mental condition that would prevent the individual from engaging in any combination of the work activities, identified in subdivisions ~~1101(28)(A)~~ through (E) of this ~~title,~~ section for at least 35 hours per week.

(2) "Able-to-work-part-time" means having a physical, emotional, or mental condition that would allow the individual to engage in any combination

of the work activities, identified in subdivisions ~~H0H~~(28)(A) through (E) of this ~~title~~, section for at least 10 hours per week but would prevent the individual from engaging in such activities for 35 or more hours per week.

* * *

Sec. 24. 33 V.S.A. § 1103 is amended to read:

§ 1103. ELIGIBILITY AND BENEFIT LEVELS

* * *

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

* * *

(5) The value of assets accumulated from the earnings of adults and children in participating families and from any federal or Vermont earned income tax credit shall be excluded for purposes of determining continuing eligibility for the Reach Up program. The asset limitation shall be ~~increased~~ ~~from \$1,000.00 to~~ \$2,000.00 for participating families for the purposes of determining continuing eligibility for the Reach Up program.

* * *

(g) The Commissioner shall use the family composition rules applicable to the welfare demonstration project established pursuant to ~~No. 106 of the Acts~~

of the 1993 Adj. Sess. (1994) 1994 Acts and Resolves No. 106 in determining eligibility and benefit levels for a financial assistance grant.

* * *

Sec. 25. 33 V.S.A. § 1104 is amended to read:

§ 1104. ABANDONMENT OR DESERTION; REPORTING

~~Forthwith upon~~ Immediately upon granting assistance for the benefit of a dependent child who has been abandoned or deserted by a parent, the ~~commissioner~~ Commissioner shall give notice to the appropriate prosecuting officer charged with the duty of enforcing laws relating to the abandonment or desertion of children or minors.

Sec. 26. 33 V.S.A. § 1107 is amended to read:

*§ 1107. CASE MANAGEMENT; FAMILY DEVELOPMENT PLANS;
COORDINATED SERVICES*

* * *

(d) The ~~Commissioner of Education~~ Secretary of Education, with the assistance and support of the Commissioners for Children and Families; of Disabilities, Aging, and Independent Living; and of Labor, shall develop and implement comparable and reciprocally recognized literacy assessment protocols that will be used for all clients seeking ~~adult basic education~~ adult education and literacy services; related services of the Agency of Education or the services of the Departments of Disabilities, Aging, and Independent

Living; of Labor; or for Children and Families, when such services are being sought for the purpose of developing or strengthening competencies or skills related to the clients' current or future employment. Such protocols shall, to the extent practicable, utilize the same terminology and apply comparable criteria, consistent with individual program purposes and authorization, in determining when testing, other standardized measurement tools, or referrals to relevant professionals for evaluation or diagnosis are appropriate.

(e) The Secretary shall work cooperatively with public and private, local, and regional entities:

(1) to develop subsidized jobs with employers, using the same health and safety standards in effect for unsubsidized jobs;

(2) to develop work placements that incorporate an ~~adult-basie education~~ adult education and literacy component into the hours of work for participants who need to continue to work on their secondary education while fulfilling their work requirement;

(3) to adopt rules which set priorities for services of benefit to the people of Vermont, and which prevent displacement of previous unsubsidized workers by subsidized Reach Up program participants; and

(4) to ensure that necessary support services are available, appropriate, and within a reasonable distance, including child care, health care, and transportation.

* * *

Sec. 27. 33 V.S.A. § 1113 is amended to read:

§ 1113. WORK REQUIREMENTS

* * *

(b)(1) The work requirement shall become effective as soon as the participating adult is work-ready, or upon the family's receipt of 12 cumulative months of financial assistance, whichever is sooner, unless at the end of the 12-cumulative-month period the participant's case manager concludes that the participant is unable to meet the hours of the applicable unmodified work requirement, as established in subsection (c) of this section. In such cases, the case manager shall prepare a written request on behalf of the participant for an extension of up to six months. The request shall identify the particular reasons why the participant is unable to meet the work requirement and the remedial actions and services to be provided to the recipient to enable fulfillment of the requirement. The request shall be submitted to the ~~district director and~~ Commissioner or the Commissioner's designee for approval. The request shall be approved unless the participant is able to meet the work requirement or a modified work requirement established in accordance with section 1114 of this title.

* * *

(c) The hours of the work requirement shall be as follows:

* * *

(3) All other able-to-work participants and able-to-work-part-time participants who are not subject to the work requirement established by subdivision (1) of this subsection, or who are exempted from the work requirement in accordance with subdivision (2) of this subsection, shall comply with the following requirements:

* * *

(d)(1) A participant required to fulfill a work requirement shall accept any unsubsidized job he or she is capable of performing, even if it pays wages that are less than the financial assistance grant. In cases in which monthly wages are less than the financial assistance grant and the family is otherwise eligible, the wages shall be supplemented with a partial financial assistance grant. The Commissioner shall establish by rule criteria for jobs that must be accepted if offered, including the criterion that each job must pay at least minimum wage.

(2) A participating adult who had wages in the three months prior to his or her application for financial assistance that, when annualized, equal or exceed 150 percent of the federal poverty level applicable to the participating adult's family shall not be required to accept employment with annualized earnings of less than 150 percent of the federal poverty level applicable to the participating adult's family, for the three-month period after being deemed eligible for financial assistance, provided that the participant:

* * *

(e) The Commissioner may require a participant to participate in a job search, coordinated by the Commissioner, for the number of hours per week that corresponds to the participant's work requirement hours under subsection (c) of this section, or a lesser amount that in combination with the participant's unsubsidized employment equals the participant's work requirement hours under subsection (c) of this section.

(f) Notwithstanding any other provision of this chapter, a participant's hours of unpaid work activities that are not primarily education, job search, job readiness ~~activities~~, or training activities shall not exceed the levels established by the Fair Labor Standards Act. Adjustments required to conform with the Fair Labor Standards Act shall be made pursuant to calculation standards established by the Commissioner by rule.

Sec. 28. 33 V.S.A. § 1116 is amended to read:

§ 1116. SANCTIONS

* * *

(b) Prior to the reduction in a family's financial assistance grant resulting from a sanction imposed under this section, the Department shall provide an independent review of the participant's circumstances and the basis for his or her noncompliance. The ~~district director~~ Commissioner or the ~~district director's~~ Commissioner's designee shall perform the review.

* * *

(i) A family sanctioned under this section for failure to meet work or family development plan requirements shall remain eligible for ~~Food Stamps~~ Supplemental Nutrition Assistance Program benefits and shall not, because of such failure, be sanctioned under the ~~Food Stamp program~~ Supplemental Nutrition Assistance Program for reasons of “failure to comply without good cause” and “voluntary quit without good cause,” provided that such eligibility and waivers of such sanctions are consistent with federal law and regulations governing the ~~Food Stamp program~~ Supplemental Nutrition Assistance Program.

Sec. 29. 33 V.S.A. § 1133(a) is amended to read:

(a) The Department shall transfer the family to Reach Up, a separate State program, or a solely State-funded program established under chapter 11 of this title if, after four months of receiving support in Reach First or sooner at the Department’s discretion, a family is assessed as needing ongoing financial assistance and the family is financially eligible for Reach Up, a separate State program, or a solely State-funded program established under chapter 11 of this title, unless the family chooses not to participate.

Sec. 30. 33 V.S.A. § 1134(a) is amended to read:

(a) On or before January 31 of each year, the Commissioner shall design and implement procedures to evaluate, measure, and report to the Governor

and the General Assembly the Department's progress in implementing Reach First, Reach Up, and Reach Ahead and achieving the goals of the programs provided for in sections 1002, 1102, and 1202 of this title. The report shall include:

(1) ~~The~~ the types of barriers facing Reach Up families seeking economic self-sufficiency, the number of families with each type of barrier, the frequency of occurrence of each type of barrier, and how support services and incentives assist in overcoming barriers;

(2) ~~Documentation~~ documentation of participant outcomes, including specific information relating to the number of persons employed, by occupation, industry, and wage; the types of subsidized and unsubsidized jobs secured by participants; any available information about outcomes for children who have participated in the programs, including objective indicators of improved conditions; the number of participating families involved in training programs; and whether the support services and incentives assist in keeping families employed; and

(3) ~~Data~~ data about the ~~food stamp~~ Supplemental Nutrition Assistance Program participation of households who have left the programs during the last fiscal year, including the number of households, adults, and children participating in the ~~food stamp program~~ Supplemental Nutrition Assistance Program three months after leaving the applicable program, broken down by

reason for termination or leaving, and the Department's plan to identify and assist eligible households to apply for ~~food stamps~~. Supplemental Nutrition Assistance Program benefits;

(4) ~~Data~~ data about the enrollment of individuals who have left the programs during the last fiscal year in a health care assistance program, including the number of adults and children enrolled in a health care assistance program three months after leaving the applicable program, broken down by reason for termination or leaving, and the Department's plan to identify and assist eligible households to apply for health care assistance;

(5) ~~A~~ a summary of all interim and final reports submitted by independent evaluation contractors to the Agency or the Department relating to the programs;

(6) ~~A~~ a description of the work participation rates, including the method of calculating the caseload reduction credit, for the most recent federal fiscal year;

(7) ~~A~~ a description of the current basic needs budget and housing allowance, the current maximum grant amounts, and the basic needs budget and housing allowance adjusted to reflect an annual cost-of-living increase;
and

(8) ~~A~~ a summary of the analysis done under subsection (b) of this section.

Sec. 31. 33 V.S.A. § 1201(9) is amended to read:

(9) “Food assistance” means a monthly benefit to supplement the family’s ~~food-stamp-benefit~~ Supplemental Nutrition Assistance Program benefits as determined under section 1204 of this chapter.

Sec. 32. 33 V.S.A. § 1203 is amended to read:

§ 1203. ELIGIBILITY

A family shall be eligible for Reach Ahead if the family resides in Vermont and:

(1) has left Reach Up or the postsecondary education program within the prior six months for employment that meets the work requirements for the Reach Up program for the family’s size and composition;

(2) is receiving ~~food-stamps~~ Supplemental Nutrition Assistance Program benefits and has employment that meets the work requirements for Reach Up for the family’s size and composition; or

(3) is an individual under 21, has a child, is ineligible for ~~food-stamps~~ Supplemental Nutrition Assistance Program benefits solely because the individual resides with the individual’s parent, and has employment that meets the work requirements for Reach Up for the family’s size and composition.

Sec. 33. 33 V.S.A. § 1204(b) is amended to read:

(b) Food assistance may be used only to purchase eligible food items as defined in the ~~food-stamp~~ Supplemental Nutrition Assistance Program federal

rules and shall be disregarded as income for the purposes of determining ~~food stamp~~ Supplemental Nutrition Assistance Program eligibility and the amount of the ~~food stamp~~ Supplemental Nutrition Assistance Program benefits.

Sec. 34. 33 V.S.A. § 1211 is amended to read:

§ 1211. RECERTIFICATION

A family's hours of employment and other countable work activities shall be verified every six months to determine continuing eligibility for the program. To the extent possible for families receiving ~~food stamps~~ Supplemental Nutrition Assistance Program benefits, income verification may be done at the same time as the ~~food stamps~~ Supplemental Nutrition Assistance Program benefit recertification or verification of employment hours.

Sec. 35. 33 V.S.A. § 1303 is amended to read:

§ 1303. STATE AID TO THE DISABLED

(a) State aid to the disabled shall be granted to a person who meets the eligibility requirements of section 1301 of this title and who in addition:

(1) ~~is~~ is permanently and totally disabled as defined in Title XVI of the Social Security Act, as amended, effective ~~January 1, 1974~~; and

(2) ~~is~~ is not, at the date of receiving aid, an inmate of any public institution.

(b) An individual is also considered disabled for purposes of this chapter if he or she was disabled as defined under this chapter and the regulations in

effect under this chapter on December 31, 1973 and received aid under this chapter for December, 1973, so long as he or she has been, since that time, continuously disabled.

Sec. 36. 33 V.S.A. § 1304 is amended to read:

§ 1304. STATE AID TO THE BLIND

(a) State aid to the blind shall be granted to a person who meets the eligibility requirements of section 1301 of this title and in addition:

(1) ~~Is~~ is blind as defined in Title XVI of the Social Security Act, as amended, ~~effective January 1, 1974;~~ and

(2) ~~Is~~ is not, at the date of receiving aid, an inmate of any public institution.

(b) An individual is also considered blind for purposes of this chapter if he or she was blind as defined under this chapter and the regulations in effect under this chapter on December 31, 1973 and received aid under this chapter for December, 1973, so long as he or she has been, since that time, continuously blind.

Sec. 37. 33 V.S.A. § 1701 is amended to read:

§ 1701. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

(a) The State of Vermont may participate in the federal Supplemental Nutrition Assistance Program which is provided for under ~~Public Law 88-525, also known as the Food Stamp and Nutrition Act of 1964, as amended~~ 7 U.S.C.

chapter 51. The Commissioner may adopt, ~~and from time to time amend,~~ or repeal, ~~regulations~~ rules governing the operation of the ~~program~~ Program in the ~~state~~ State.

* * *

Sec. 38. 33 V.S.A. § 1900 is added to read:

§ 1900. DEFINITIONS

As used in this subchapter, unless otherwise indicated:

(1) “Agency” means the Agency of Human Services.

(2) “Commissioner” means the Commissioner of Vermont Health Access.

(3) “Department” means the Department of Vermont Health Access.

(4) “Insurer” means any insurance company, prepaid health care delivery plan, self-funded employee benefit plan, pension fund, hospital or medical service corporation, managed care organization, pharmacy benefit manager, prescription drug plan, retirement system, or similar entity that is under an obligation to make payments for medical services as a result of an injury, illness, or disease suffered by an individual.

(5) “Legally liable representative” means a parent or person with an obligation of support to a recipient whether by contract, court order, or statute.

(6) “Provider” means any person who has entered into an agreement with the State to provide any medical service.

(7) “Recipient” means any person or group of persons who receive Medicaid.

(8) “Secretary” means the Secretary of Human Services.

(9) “Third party” means a person having an obligation to pay all or any portion of the medical expense incurred by a recipient at the time the medical service was provided. The obligation is not discharged by virtue of being undiscovered or undeveloped at the time a Medicaid claim is paid. Third parties include:

(A) Medicare;

(B) health insurance, including health and accident but not that portion specifically designated for “income protection” which has been considered in determining recipient eligibility to participate in the Medicaid program;

(C) medical coverage provided in conjunction with other benefit or compensation programs, including military and veteran programs or workers’ compensation;

(D) liability for medical expenses as agreed to or ordered in negligence suits, support settlements, or trust funds; and

(E) managed care organizations, pharmacy benefit managers, self-insured plans, and other entities that are, by statute, contract, or agreement, legally responsible for the payment of a claim for a health care item or service.

(10) "Tobacco" means all products listed in 7 V.S.A. § 1001(3).

(11) "Tobacco manufacturer" means any person engaged in the process of designing, fabricating, assembling, producing, constructing, or otherwise preparing a product containing tobacco, including packaging or labeling of these products, with the intended purpose of selling the product for gain or profit. "Tobacco manufacturer" does not include persons whose activity is limited to growing natural leaf tobacco or to selling tobacco products at wholesale or retail to customers. "Tobacco manufacturer" also does not include any person who manufactures or produces firearms, dairy products, products containing alcohol, or other nontobacco products, unless such person also manufactures or produces tobacco products.

Sec. 39. 33 V.S.A. § 1901(e)(1) is amended to read:

(e)(1) The Department for Children and Families and the Department of Vermont Health Access shall monitor ~~and~~, evaluate, and report quarterly ~~beginning July 1, 2006~~ on the disenrollment in each of the Medicaid or Medicaid waiver programs subject to premiums, including:

* * *

Sec. 40. 33 V.S.A. § 1901e is amended to read:

§ 1901e. GLOBAL COMMITMENT FUND

** * **

(b) The monies in the ~~fund~~ Fund shall be disbursed as allowed by appropriation of the General Assembly, and shall be disbursed by the ~~treasurer~~ Treasurer on warrants issued by the Commissioner of Finance and Management, when authorized by the Commissioner of Vermont Health Access and approved by the Commissioner of Finance and Management consistent with the interdepartmental agreements between the managed care organization within the Department of Vermont Health Access and departments delivering eligible services under the waiver. The ~~department of Vermont health-access~~ Department of Vermont Health Access may not modify an appropriation through an interdepartmental agreement or any other mechanism. A department or agency authorized to spend monies from this ~~fund~~ Fund under an interdepartmental agreement may spend monies appropriated as a base Medicaid expense for an allowable managed care organization investment under ~~Term and Condition 57~~ the terms and conditions of the Global Commitment for Health Medicaid Section 1115 waiver only after receiving approval from the Agency of Human Services.

(c) At the close of the fiscal year, the Agency shall provide a detailed report to the Joint Fiscal Committee which describes the managed care

organization's investments under ~~Term and Condition 57~~ the terms and conditions of the Global Commitment for Health Medicaid Section 1115 waiver, including the amount of the investment and the agency or departments authorized to make the investment.

Sec. 41. REPEAL

33 V.S.A. § 1904 (definitions) is repealed.

Sec. 42. 33 V.S.A. § 1906a is amended to read:

§ 1906a. RECOVERY AGAINST ESTATE; HOMESTEAD EXEMPTIONS

No recovery of medical expenses shall be made under this subchapter against a homestead; provided that the homestead would pass to one or more lineal heirs or siblings of the decedent who either have income below 300 percent of the federal poverty level or who have contributed significantly, monetarily or otherwise, to the decedent so as to allow the decedent to delay or avoid nursing home placement. ~~This section shall take effect when the amended state plan is deemed approved by the Health Care Financing Administration (HCFA) pursuant to 42 C.F.R. § 430.16. If such approval is received after June 30, 1999 the exemption shall be retroactive and apply to all probate estates opened after June 30, 1999. If the agency of human services does not receive approval of the state plan amendment, it shall exhaust all administrative appeals and seek approval of another state plan amendment at the maximum homestead value exemption the health care~~

~~financing administration (HCFA) will allow:~~ *If a maximum homestead value exemption is ~~approved by HCFA~~ allowed by federal law, then any recoveries due ~~HCFA~~ to the U.S. Department of Health and Human Services on homesteads valued between such maximum and \$125,000.00 shall be paid through ~~state~~ State general funds provided the caregiving or poverty standards set forth ~~above~~ in this section are also met and the probate estate was opened after June 30, 2000.*

Sec. 43. 33 V.S.A. § 1907 is amended to read:

§ 1907. SUBROGATION

To the extent that payment for covered expenses has been made under the ~~State~~ Medicaid program or through any State agency administering health benefits or a health benefit plan for which Medicaid is a source of funding for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the State is considered to have acquired the rights of the individual to payment by any other party for those health care items or services. An insurer shall accept the agency's right to recovery and the assignment to the agency of any right of a person to payment from the third party for medical services for which the Agency has made payment under this chapter.

Sec. 44. 33 V.S.A. § 1951 is amended to read:

§ 1951. DEFINITIONS

As used in this subchapter:

(1) *“Assessment” means a tax levied on a health care provider pursuant to this chapter.*

(2) *“Core home health care services” means those medically-necessary skilled nursing, home health aide, therapeutic, and personal care attendant services, provided exclusively in the home by home health agencies. Core home health services do not include private duty nursing, hospice, homemaker or physician services, or services provided under early periodic screening, diagnosis, and treatment (EPSDT), traumatic brain injury (TBI), high technology programs, or services provided by a home for the terminally ill as defined in subdivision ~~7102(10)~~ 7102(3) of this title.*

* * *

Sec. 45. 33 V.S.A. § 1998(f) is amended to read:

(f)(1) The Drug Utilization Review Board shall make recommendations to the Commissioner for the adoption of the preferred drug list. The Board’s recommendations shall be based upon evidence-based considerations of clinical efficacy, adverse side effects, safety, appropriate clinical trials, and cost-effectiveness. “Evidence-based” shall have the same meaning as in 18 V.S.A. § 4621. The Commissioner shall provide the Board with evidence-based information about clinical efficacy, adverse side effects, safety,

and appropriate clinical trials and shall provide information about cost-effectiveness of available drugs in the same therapeutic class.

(2) The Board shall meet at least quarterly. The Board shall comply with the requirements of 1 V.S.A. chapter 5, subchapter 2 (~~open meetings~~ Open Meeting Law) and 1 V.S.A. chapter 5, subchapter 3 (~~open records~~ Public Records Act), except that the Board may go into executive session to discuss drug alternatives and receive information on the relative price, net of any rebates, of a drug under discussion and the drug price in comparison to the prices, net of any rebates, of alternative drugs available in the same class to determine cost-effectiveness, and in order to comply with subsection 2002(c) of this title to consider information relating to a pharmaceutical rebate or to supplemental rebate agreements, which ~~is~~ are protected from disclosure by federal law or the terms and conditions required by the Centers for Medicare and Medicaid Services as a condition of rebate authorization under the Medicaid program.

** * **

Sec. 46. 33 V.S.A. § 1999(e)(1) is amended to read:

(e)(1) The prior authorization process shall be designed to minimize administrative burdens on prescribers, pharmacists, and consumers. The provisions of this section shall apply to the Program's prior authorization

~~process, except to the extent that different prior authorization rules are established in section 2004 of this title.~~

Sec. 47. 33 V.S.A. § 2003 is amended to read:

§ 2003. PHARMACY DISCOUNT PLANS

** * **

(c) As used in this section:

** * **

(5) “Labeler” means an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal Food and Drug Administration under ~~21 Code of Federal Regulations, 207.20 (1999)~~ 21 C.F.R. § 207.20.

(6) “Participating retail pharmacy” means a retail pharmacy located in this State or another business licensed to dispense prescription drugs in this State that participates in the program according to rules established by the Department and provides discounted prices to eligible beneficiaries of the program.

(7) “Rebate amount” means the rebate negotiated by the ~~director~~ Director and required from a drug manufacturer or labeler under this section. In determining the appropriate rebate, the ~~director~~ Director shall:

(A) *take into consideration the rebate calculated under the Medicaid Rebate Program under ~~section 1396r-8 of Title 42 of the United States Code~~ 42 U.S.C. § 1396r-8, the average wholesale price of prescription drugs, and any other information on prescription drug prices and price discounts;*

(B) *use his or her best efforts to obtain an initial rebate amount equal to or greater than the rebate calculated under the Medicaid program under ~~section 1396r-8 of Title 42 of the United States Code~~ 42 U.S.C. § 1396r-8; and*

(C) *use his or her best efforts to obtain an amount equal to or greater than the amount of any discount, rebate, or price reduction for prescription drugs provided to the federal government.*

(8) *“Secondary discounted cost” means, under the Healthy Vermonters program, the price of the drug based on the Medicaid fee schedule, less payment by the State of at least two percent of the Medicaid rate, less any rebate amount negotiated by the ~~director~~ Director and paid for out of the Healthy Vermonters dedicated fund established under subsection ~~(j)~~(h) of this section and, under the Healthy Vermonters Plus program, the average wholesale price of the drug, less payment by the State of at least two percent of the Medicaid rate, less any rebate amount negotiated by the ~~director~~ Director and paid for out of the Healthy Vermonters dedicated fund established under subsection ~~(j)~~(h) of this section.*

(9) "Without adequate coverage" includes beneficiaries with no coverage for prescription drugs or certain types of prescription drugs, and beneficiaries whose annual maximum coverage limit under their health benefit plan has been reached.

* * *

(f) The names of drug manufacturers and labelers who do and do not enter into rebate agreements under pharmacy discount plans are public information. The Department of Vermont Health Access shall release this information to health care providers and the public on a regular basis and shall publicize participation by manufacturers and labelers. The Department shall impose prior authorization requirements in the Medicaid program, as permitted by law, to the extent the Department determines it is appropriate to do so in order to encourage manufacturer and labeler participation in the pharmacy discount plans and so long as the additional prior authorization requirements remain consistent with the goals of the Medicaid program and the requirements of Title XIX of the ~~federal~~ Social Security Act.

* * *

Sec. 48. 33 V.S.A. § 2071 is amended to read:

§ 2071. DEFINITIONS

As used in this subchapter:

(1) *“Individual with disabilities” means an individual who is under age 65 and is entitled, under the ~~federal~~ Social Security Act, to disability insurance benefits or is eligible for Medicare.*

(2) *“Maintenance drug” means a drug approved by the ~~FDA~~ federal Food and Drug Administration for continuous use and prescribed to treat a chronic condition for a prolonged period of time of 30 days or longer and includes insulin, an insulin syringe, and an insulin needle.*

(3) *“Medicare ~~part~~ Part D” means the prescription drug program established under the Medicare Prescription Drug, Improvement and Modernization Act of 2003, P.L. 108-173, including the prescription drug plans offered pursuant to the act.*

* * *

Sec. 49. 33 V.S.A. § 2101 is amended to read:

§ 2101. DEFINITIONS

Unless otherwise expressly provided, the words and phrases in this chapter mean:

(1) *~~“District welfare director” means an employee of the Agency of Human Services so designated by the Secretary.~~ “Commissioner” means the Commissioner for Children and Families.*

* * *

Sec. 50. 33 V.S.A. § 2104 is amended to read:

§ 2104. APPLICATION OR INFORMATION

(a) A person may apply for general assistance to the ~~nearest available town service officer or district welfare director in the manner required~~ person or persons designated for that purpose by the ~~commissioner~~ Commissioner.

(b) When a ~~town service officer or district welfare director~~ person designated by the Commissioner pursuant to subsection (a) of this section receives an application for general assistance or is informed that a person is in need of general assistance, he or she shall investigate and make a determination as to the applicant's eligibility for general assistance, and provide under regulations of the ~~department~~ Department emergency assistance as may be required. ~~The town service officer shall promptly notify the district welfare director of all determinations which he or she makes as to an applicant's eligibility.~~

Sec. 51. 33 V.S.A. § 2107(a) is amended to read:

(a) When the ~~town service officer or district welfare director or Commissioner or a person designated by the ~~commissioner~~ Commissioner pursuant to section 2104 of this title~~ has reason to believe that an applicant for or recipient of general assistance came into the ~~state~~ State for the purpose of receiving general assistance ~~they~~, he or she may find the applicant or recipient ineligible for general assistance.

Sec. 52. 33 V.S.A. § 2109(b) is amended to read:

(b) Except as provided in subsection (c) of this section, in the case of a hospital, the notice required in subsection (a) of this section shall be supplemented, as soon as reasonably possible, with a plan or proposed method of collecting from the person for relief and care, and other pertinent information requested by the ~~department~~ Department. In the case of a person, after giving notice required in subsection (a) of this section, he or she shall file additional information with the ~~department~~ Department on a form prescribed by the ~~commissioner~~ Commissioner.

Sec. 53. 33 V.S.A. § 2301(d) is amended to read:

(d) As used in this chapter, “burial” means the final disposition of human remains, including interring or cremating a decedent and the ceremonies directly related to that cremation or interment at the gravesite; “Department” means the Department for Children and Families; and “funeral” means the ceremonies prior to burial by interment, cremation, or other method.

Sec. 54. REDESIGNATION

33 V.S.A. § 2501a (Office of Home Energy Assistance) is redesignated as 33 V.S.A. § 2602a.

Sec. 55. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

** * **

(c) The tax shall be administered by the Commissioner of Taxes, and all receipts shall be deposited by the Commissioner in the Home Weatherization Assistance Trust Fund. All provisions of law relating to the collection, administration, and enforcement of the sales and use tax imposed by 32 V.S.A. chapter 233 shall apply to the tax imposed by this chapter.

(d) ~~{Repeated.}~~

(e) Fuel sellers, which are regulated “companies” as defined in subsection 30 V.S.A. § 201(a), which provide conservation programs that meet the goals of the weatherization program in a manner approved by the Public Service Board, and which enhance the weatherization program’s capacity to serve ~~low~~ income low-income households may be eligible for rebates from the fuel gross receipts tax imposed under this section. To establish rebate eligibility, ~~such~~ a company shall file with the Public Service Board, on or before August 15 of each year, a request for approval of rebates based on the company’s activities during the prior fiscal year. The ~~public service board~~ Public Service Board shall make a determination of the amount of rebate for each applicant on or before January 15 of each year, and such amount shall be rebated by the ~~State Economic Opportunity Office~~ State Office of Economic Opportunity under the provisions of subsection ~~(g)~~(f) of this section. The Public Service Board shall authorize rebates equal to the expenditures undertaken by the regulated utilities provided that such expenditures were prudently incurred and

cost-effective, that they provided weatherization services following a comprehensive energy audit and work plan, except in cases where the fuel seller and weatherization staff jointly conclude that the need for weatherization services can be determined without a comprehensive energy audit, and that they were targeted to households that meet the eligibility criteria for ~~low-income~~ low-income weatherization services as determined by the Office of Economic Opportunity.

(f)(e) Unregulated fuel sellers ~~that provide~~ providing conservation programs that meet the goals of the weatherization program in a manner approved by the ~~State Economic Opportunity Office~~ State Office of Economic Opportunity and ~~which that~~ that enhance the weatherization program's capacity to serve ~~low-income~~ low-income households may be eligible for rebates from the fuel gross receipts tax imposed under this section. To establish rebate eligibility, ~~such~~ a company shall file with the ~~State Economic Opportunity Office~~ State Office of Economic Opportunity, on or before August 15 of each year, a request for approval of rebates based on the company's activities during the prior fiscal year. The ~~State Economic Opportunity Office~~ State Office of Economic Opportunity shall make a determination of the amount of rebate for each applicant on or before January 15 of each year, and ~~such that~~ that amount shall be rebated by the ~~State Economic Opportunity Office~~ State Office of Economic Opportunity under the provisions of this subsection. The ~~State~~

~~Economic Opportunity Office~~ State Office of Economic Opportunity shall authorize rebates equal to the expenditures undertaken by the unregulated fuel sellers provided that ~~such~~ the expenditures were prudently incurred and cost-effective, that they provided weatherization services following a comprehensive energy audit and work plan, except in cases where the fuel seller and weatherization staff jointly conclude that the need for weatherization services can be determined without a comprehensive energy audit, and that they were targeted to households at or below 150 percent of the ~~federally established~~ federally established poverty guidelines.

~~(g)(f)~~ On or before August 7 of each year, the Director of the ~~State Economic Opportunity Office~~ State Office of Economic Opportunity shall set aside a sum of money equaling two and one-half percent of the tax receipts of the fuel gross receipts tax for the preceding fiscal year in an escrow account. The monies in the escrow account are to be used for rebate, as approved under subsections (d) and (e) ~~and (f)~~ of this section, of the gross receipts tax established in subsection (a) of this section. Upon approval of rebates, the Director shall pay the approved rebates out of the escrow account. In the event that the approved rebates exceed the amount of money set aside in the escrow account, the Director shall prorate each rebate. Any balance of rebate awards remaining unpaid as a result of proration may be carried forward for payment in a succeeding year. If monies set aside exceed approved rebates,

then the balance shall be returned to the ~~fund~~ Trust Fund. The Director of the ~~State Economic Opportunity Office~~ State Office of Economic Opportunity shall use the remainder of the tax receipts of the fuel gross receipts tax for the preceding fiscal year to assure the provision of weatherization services as described in subsections 2502(a), (b), and (c) of this title.

~~(h)~~(g) No tax under this section shall be imposed for any quarter ending after June 30, 2016. Monies from the escrow account shall be issued for rebates pursuant to subsection ~~(g)~~(f) of this section until March 1, 2017.

Sec. 56. 33 V.S.A. § 2604(b) is amended to read:

(b) Fuel cost requirements. The Secretary of Human Services or designee shall by procedure establish a table that contains amounts that will function as a proxy for applicant households' annual heating fuel cost for the previous year. The seasonal fuel expenditure estimates contained within ~~such~~ the table shall closely approximate the actual home heating costs experienced by participants in the Home Heating Fuel Assistance Program. Data on actual heating costs collected pursuant to subsection 2602(d) of this title shall be used in lieu of the proxy table when available. ~~Such~~ The table shall be revised no less frequently than every three years based on data supplied by certified fuel suppliers, the Department of Public Service, and other industry sources to the ~~office of home heating fuel assistance~~ Office of Home Heating Fuel Assistance. The Secretary or designee shall provide a draft of the table to the

Home Energy Assistance Task Force established pursuant to subsection ~~2501a(e)~~ 2602a(c) of this title and solicit input from the ~~task force~~ Task Force prior to finalizing the table.

Sec. 57. 33 V.S.A. § 2607(f) is amended to read:

(f) The Secretary of Human Services or designee shall negotiate with one or more certified fuel suppliers to obtain the most advantageous pricing ~~and~~ payment terms, and delivery methods possible for eligible households.

Sec. 58. 33 V.S.A. § 3303(a) is amended to read:

(a) The ~~council~~ Council shall assist ~~state~~ State agencies and the departments in the development, improvement, and coordination of primary prevention programs and activities at the ~~state~~ State and local levels. In providing this service, the ~~council~~ Council shall:

(1) acquire and provide pertinent research data and technical assistance related to the development and practice of primary prevention programs;

(2) develop a ~~state~~ State primary prevention plan that coordinates and consolidates the primary prevention planning efforts of the ~~state~~ State agencies and departments specified in section ~~3304~~ 3305 of this title;

* * *

Sec. 59. 33 V.S.A. § 3304 is amended to read:

§ 3304. STATE PRIMARY PREVENTION PLAN

* * *

~~(b) By July 1, 1984, the Council shall submit a prevention plan to the Governor and to the Senate and House Committees on health and welfare and Appropriations. Such Plan shall incorporate and consolidate the proposals and recommendations for primary prevention developed by:~~

~~(1) the Agency of Education;~~

~~(2) the Agency of Human Services, including all departments;~~

~~(3) the Department of Motor Vehicles.~~

~~(c) By July 1, 1985, the Council shall submit a revised prevention plan to the Governor and to the Senate and House Committees on health and welfare and Appropriations. The revised plan shall incorporate and consolidate proposals and recommendations for primary prevention developed by:~~

~~(1) the Office of the Attorney General;~~

~~(2) the Agency of Commerce and Community Development;~~

~~(3) the Department of Labor;~~

~~(4) the Department of Public Safety;~~

~~(5) the Department of Forests, Parks and Recreation.~~

~~(d)(b) By July 1, 1986, and biennially thereafter of each even-numbered year, the Council shall revise the State primary prevention plan which shall be submitted to the Governor and the Senate and House Committees on health and welfare and Appropriations, the House Committee on Human Services, the~~

House Committee on Appropriations, the Senate Committee on Health and Welfare, and the Senate Committee on Appropriations.

Sec. 60. 33 V.S.A. § 3305 is amended to read:

§ 3305. IMPLEMENTATION AND EVALUATION OF PRIMARY PREVENTION PLAN

~~The state agencies and departments specified in section 3304 this title shall formulate primary Primary prevention policies and implementation practices that are consistent with the state primary prevention plan. Such policies and practices shall be targeted to specific goals, objectives, and key result areas and shall be consistent with the State primary prevention plan. The following departments and agencies shall formulate the policies and practices:~~

- (1) the Agency of Education;
- (2) the Agency of Human Services, including all departments;
- (3) the Department of Motor Vehicles;
- (4) the Office of the Attorney General;
- (5) the Agency of Commerce and Community Development;
- (6) the Department of Labor;
- (7) the Department of Public Safety; and
- (8) the Department of Forests, Parks and Recreation.

Sec. 61. 33 V.S.A. § 3501 is amended to read:

*§ 3501. ~~FOSTER CARE AND PLACEMENT LICENSING~~ DIVISION OF
CHILD DEVELOPMENT; DUTIES*

(a) ~~A person, other than an employee of a department within the agency of human services shall not place any child in foster care for more than 15 consecutive days unless the person has a license from the department to do so or is an employee of a child placing agency licensed by such department.~~

(b) ~~A person shall not receive, board or keep any child in foster care for more than 15 consecutive days unless he or she has a license from the department to do so. This subsection shall not apply to foster homes approved by a department within the agency of human services or by a licensed child placing agency nor shall it apply to those facilities where educational or vocational training is the primary service and foster care is a supportive service only.~~

(c) ~~This section shall not restrict the right of a court, parent, guardian, or relative to place a child, nor the right of a person not in the business of providing foster care or child care to receive, board and keep a child when a valuable consideration is not demanded or received for the child's care and maintenance.~~

The Division of Child Development shall:

(1) encourage the development of a comprehensive child care services system which promotes the wholesome growth and educational development of children;

(2) facilitate the development of child care facilities;

(3) encourage and promote the provision by child care providers of parenting education, developmentally appropriate activities, and primary prevention services;

(4) facilitate cooperation between the private and public sectors to promote the expansion of child care services;

(5) promote continuing study of child care needs and the most effective methods by which these needs can be served through governmental and private programs;

(6) coordinate activities of the Division with other State agencies serving children and families;

(7) strive to make the State a model employer by encouraging it to offer a variety of child care benefit options to its employees;

(8) provide training for child care providers;

(9) support resource and referral services for parents and providers;

and

(10) promote the involvement of businesses and communities in the development of child care services throughout the State by providing technical assistance to providers and potential providers of child care services.

Sec. 62. 33 V.S.A. § 3502 is amended to read:

§ 3502. CHILD CARE FACILITIES; ~~SCHOOL-AGE~~ SCHOOL-AGE CARE
IN PUBLIC SCHOOLS; 21st CENTURY FUND

* * *

(b) The following persons are exempted from the provisions of subsection (a) of this section:

* * *

(2) A hospital or establishment holding a license issued by the Department of Health, or a person operating a program primarily for recreational or therapeutic purposes, unless the hospital, establishment, or person provides services for the care, protection, and supervision of children not incidental to its primary purpose in which case subsection (a) of this section shall apply to those nonincidental additional services.

* * *

(g) ~~[Deleted.]~~ [Repealed.]

* * *

Sec. 63. 33 V.S.A. § 3511 is amended to read:

§ 3511. DEFINITIONS

As used in this chapter:

(1) “Child” means an individual under ~~the age of~~ 13 years of age.

(2) “Child care facility” means any place or program operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care, and supervision of children under 16 years of age outside their homes for periods of fewer than 24 hours a day by a person other than a child’s own parent, guardian, or relative, as defined by rules adopted by the Department for Children and Families, but not including a kindergarten approved by the State Board of Education.

~~(2)~~(3) “Child care provider” means a person licensed or registered by the Department for Children and Families, or authorized by the Department, to provide child care.

~~(3)~~(4) “Child care services” include developmentally appropriate care and supervision for children under ~~the age of~~ 13 years of age for fewer than 24 hours a day by a child care provider.

~~(4)~~(5) “Commissioner” means the Commissioner for Children and Families.

~~(5)~~(6) “Division” means the Child Development Division.

~~(6)~~(7) “Family child care home” means a child care facility which provides care on a regular basis in the caregiver’s own residence for not more than 10 children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. As used in this subdivision, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver, except:

(A) these part-time school-age children may be cared for on a full-day basis during school closing days, snow days, and vacation days which occur during the school year; and

(B) during the school summer vacation, up to 12 children may be cared for provided that at least six of these children are of school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (seven years of age and older) and who reside in the residence of the caregiver.

(8) “Training” means an activity, approved by the Commissioner or the Commissioner’s designee, ~~which~~ that is likely to lead to employment or required to maintain employment.

Sec. 64. 33 V.S.A. § 3513 is amended to read:

*§ 3513. PROTECTIVE AND FAMILY SUPPORT CHILD CARE
SERVICES*

The ~~division~~ Division shall establish a program which subsidizes, in whole or in part, the cost of child care services provided to protective services children or to families for the purpose of preserving, rehabilitating, or reunifying such families.

Sec. 65. 33 V.S.A. § 3521 is redesignated to read:

*§ 3521. CHILD CARE FACILITIES FINANCING PROGRAM
ESTABLISHED; ~~ADVISORY BOARD~~*

Sec. 66. 33 V.S.A. § 3531 is amended to read:

*§ 3531. CHILD CARE—BUILDING BRIGHT SPACES FOR BRIGHT
FUTURES FUNDS*

(a) A child care facilities financing program is established to facilitate the development and expansion of child care facilities in the State. The ~~program~~ Program shall be administered by the Department for Children and Families.

(b) The ~~program~~ Program shall be supported from a special fund, to be known as the “Building Bright Spaces for Bright Futures Fund,” hereinafter referred to as “the Bright Futures Fund,” hereby created for this purpose to be administered by the Commissioner for Children and Families. Subject to approvals required by 32 V.S.A § 5, the ~~fund~~ Fund may accept gifts and

donations from any source, and the Commissioner may take appropriate actions to encourage contributions and designations to the account, including publicizing explanations of the purposes of the Fund and the uses to which the Bright Futures Fund has been or will be applied.

(c) Funds appropriated for this ~~program~~ Program shall be used by the Commissioner to award grants to eligible applicants for the development and expansion of child care options and community programs targeted for youths ~~aged~~ 14 through 18 years of age. These options may include recreational programs and related equipment or facilities, development or expansion of child care facilities, and community-based programs which address specific child care and youth program needs of the applicant region. The Commissioner shall establish, by rule, criteria, conditions, and procedures for awarding such grants and administering this ~~program~~ Program.

Sec. 67. 33 V.S.A. § 4105(e) is added to read:

(e) A public utility company as defined in 30 V.S.A. § 201(a), or a cable television company as defined in 30 V.S.A. § 501, when requested by the Office of Child Support, shall provide the address as it appears in its customer records of a parent or person named in the request.

Sec. 68. 33 V.S.A. § 4111 is added to read:

§ 4111. ACCESS TO FINANCIAL RECORDS OF DEPOSIT ACCOUNTS

OF INDIVIDUALS WHO OWE OVERDUE CHILD SUPPORT

(a) As used in this section:

(1) “Depositor” means an owner of an account in a financial institution and includes a “share account holder” of a credit union.

(2) “Financial institution” means a trust company, savings bank, industrial bank, commercial bank, savings and loan association, or credit union organized under the laws of this State or authorized to do business in this State.

(3) “Match” means an automated comparison by name, Social Security number, and, if available, date of birth of a list of obligors provided to a financial institution by the Office and a list of depositors of a financial institution.

(4) “Obligor” means a person who owes child support.

(5) “Office” means the Office of Child Support.

(6) “Overdue support” means a debt of one-quarter of the annual support obligation or more for maintenance and support of a child or children and the obligor had prior notice of the debt and a prior opportunity to contest the amount owed. “Overdue support” includes spousal support or alimony being collected in conjunction with child support.

(b) Upon written request from the Director of the Office of Child Support and provided the institution has the technological capacity to perform a match, a financial institution shall perform a match of obligors who owe overdue child support. The Office shall make its computerized information necessary for a match available in a form that is compatible with the technology used by the financial institution that will perform the search. A financial institution shall not be required to perform a match under this section more often than once every quarter.

(c) After completing a match requested under subsection (b) of this section, a financial institution shall notify the Office of Child Support. The notification shall contain the following information, if available to the financial institution through its matching procedure, for each account identified:

(1) the full name, date of birth, and address of the obligor;

(2) the Social Security number of the obligor;

(3) the obligor's account number; and

(4) the amount of deposits contained in the obligor's account.

(d) A financial institution shall send a match list compiled under this section to the Office at the address designated by the Office.

(e) The financial institution shall not provide notice in any form to a depositor contained in a match list submitted to the Office under subsection (d)

of this section. Failure to provide notice to a depositor shall not constitute a violation of the financial institution's duty of good faith to its customers.

(f) A financial institution may charge the Office a fee for services provided under this section provided that the fee shall not exceed the actual costs incurred by the financial institution.

(g) The information provided by the Office to a financial institution under this section shall be confidential and shall be used only for the purpose of carrying out the requirements of this section.

Sec. 69. 33 V.S.A. § 4302 is amended to read:

§ 4302. STATE INTERAGENCY TEAM

(a) A ~~state~~ State interagency team is created and shall consist of eight members:

(1) ~~the director~~ The Director of the division responsible for special education for the ~~department of education;~~ Agency of Education.

(2) ~~the department of education's~~ The Agency of Education's consultant for children and adolescents with a severe emotional disturbance;

(3) ~~the director~~ The Director of the division responsible for children's mental health services for the ~~department of developmental and mental health services;~~ Department of Mental Health.

(4) ~~the children's program specialist for~~ The Chief of the division responsible for mental health services Children, Adolescents, and Family Unit

~~in the Division of Children's Mental Health Services for the department of developmental and mental health services;~~ Department of Mental Health.

(5) ~~the director of the division responsible for social services for the department of social and rehabilitation services;~~ The Deputy Commissioner for the Family Services Division of the Department for Children and Families.

(6) ~~the~~ The placement consultant for the ~~division responsible for social services for the department of social and rehabilitation services;~~ Family Services Division of the Department for Children and Families.

(7) ~~a~~ A representative of the ~~secretary of the agency of human services;~~ Secretary of Human Services.

(8) ~~a~~ A parent of a child or adolescent with a severe emotional disturbance. ~~Such~~ The parent shall receive compensation in accordance with the provisions of ~~section 1010 of Title 32 V.S.A. § 1010,~~ and ~~such~~ the compensation shall be paid for by the ~~agency of human services~~ Agency of Human Services.

(b) ~~The state~~ State interagency team shall have the following powers and duties:

(1) ~~submit~~ Submit an annual report to the ~~commissioners of developmental and mental health services, social and rehabilitation services~~ Commissioners of Mental Health and for Children and Families and the Secretary of Education on the status of programs for children and adolescents

with a severe emotional disturbance which shall include a system of care plan. The system of care plan shall identify the characteristics and number of children and adolescents with a severe emotional disturbance in need of services, describe the educational, residential, mental health, or other services needed, describe the programs and resources currently available, recommend a plan to meet the needs of such children and adolescents, and recommend priorities for the continuation or development of programs and resources;

~~(2) ensure that local interagency teams are established by January 1, 1989;~~

~~(3) develop~~ Develop and coordinate the provision of services to children and adolescents with a severe emotional disturbance;

~~(4)~~(3) ~~make~~ Make recommendations to the local interagency team for resolution of any case of a child or adolescent with a severe emotional disturbance referred by a local interagency team under subsection 4303(f) of this chapter; ~~and~~.

~~(5)~~(4) ~~recommend~~ Recommend to the ~~secretary of the agency of human services and to the commissioners of the departments of education, developmental and mental health services, and social and rehabilitation services~~ Secretaries of Human Services and of Education and the Commissioners of Mental Health and for Children and Families any fiscal, policy, or programmatic change at the local, regional, or ~~state~~ State level

necessary to enhance the ~~state's~~ State's system of care for children and adolescents with a severe emotional disturbance and their families.

Sec. 70. 33 V.S.A. § 4303 is amended to read:

§ 4303. LOCAL INTERAGENCY TEAMS

(a) There shall be at least one local interagency team for each administrative district established by the ~~department of social and rehabilitation services~~ Department for Children and Families whose permanent membership shall include:

(1) ~~the~~ The person from the designated community mental health agency for that district responsible for coordinating children's services;

(2) ~~the~~ The person managing the family services district office of the ~~department of social and rehabilitation services~~ Department for Children and Families for that district;

(3) ~~a~~ A special education administrator from a school district in that district;

(4) ~~a~~ A person designated by the ~~secretary~~ Secretary of ~~the agency of~~ Human Services;

(5) ~~a~~ A parent of a child or adolescent with a severe emotional disturbance. ~~Such~~ The parent shall receive compensation in accordance with the provisions of ~~section 1010 of Title 32~~ V.S.A. § 1010, and ~~such~~ the

compensation shall be paid for by the ~~agency of human services~~ Agency of Human Services.

* * *

Sec. 71. 33 V.S.A. § 4304a is amended to read:

§ 4304a. ADVISORY BOARD

(a) An ~~advisory board~~ Advisory Board is created to advise the ~~commissioners of developmental and mental health services, social and rehabilitation services and education~~ Secretary of Education and the Commissioners of Mental Health and for Children and Families about children and adolescents with a severe emotional disturbance and their families.

* * *

Sec. 72. 33 V.S.A. § 4305 is amended to read:

§ 4305. COORDINATED SYSTEM OF CARE

(a)(1) Services provided by or through the ~~departments of developmental and mental health services, social and rehabilitation services and education~~ Departments of Mental Health and for Children and Families and the Agency of Education to children and adolescents with a severe emotional disturbance shall be pursuant to a coordinated services plan, developed in accordance with the provisions of this chapter.

~~(2) Nothing in the provisions of this chapter shall be construed to grant an entitlement to any child or adolescent with a severe emotional disturbance to receive any educational, residential, mental health, or other service until and unless the ~~general assembly~~ General Assembly further provides that such children and adolescents or any subgroup thereof are so entitled.~~

~~(b)(1) The ~~state board of education and the departments of developmental and services and social and rehabilitation services~~ State Board of Education, the Department of Mental Health, and the Department for Children and Families shall jointly adopt rules ~~by January 1, 1991~~ implementing the provisions of this chapter. Such rules shall:~~

~~(A) provide guidelines for local interagency teams for development of procedures, with public participation, relating to:~~

~~(i) referral, assessment, development, annual review and revision of coordinated service plans, and time frames for these activities;~~

~~(ii) fixing responsibility for case management; and~~

~~(iii) notice to parents and guardians and other agencies.~~

~~Local interagency teams shall submit procedures developed in accordance with the rules adopted under this subdivision to the advisory board for review and comment. Thereafter, the proposed procedures shall be submitted to the commissioners, who shall approve the procedures if all the elements of these subdivisions are satisfied.~~

~~(2)(B)~~ *protect the rights of children and adolescents and their parents and guardians concerning consent and confidentiality; and*

~~(3)(C)~~ *ensure that matters unresolved after ~~state~~ State interagency team review are subject to procedures for notice, hearing, and decisions of contested cases consistent with the provisions of 3 V.S.A. chapter 25 of Title 3.*

(2) Local interagency teams shall submit procedures developed in accordance with the rules adopted under subdivision (1)(A) of this subsection to the Advisory Board for review and comment. Thereafter, the proposed procedures shall be submitted to the Commissioners, who shall approve the procedures if all the elements specified in subdivision (1)(A) of this subsection are satisfied.

~~(c) The commissioners of developmental and mental health services, social and rehabilitation services and education~~ Commissioners of Mental Health and for Children and Families and the Secretary of Education shall jointly submit to the ~~general assembly~~ General Assembly a report on the status of programs for children and adolescents with a severe emotional disturbance and their families which shall include a system of care plan. The report shall be submitted together with the general appropriation bill provided for by ~~section 701 of Title 32 V.S.A. § 701.~~ The system of care plan shall:

* * *

~~(d) The secretary of human services and the commissioner of education shall report to the general assembly by January 15, 1991 with their recommendations concerning the coordination and provision of adequate and appropriate services to all children with disabilities. The report shall identify the characteristics and number of children with disabilities in need of services, describe the educational, residential, mental health, or other services needed, describe currently available programs and resources, recommend priorities for the needs of children with disabilities, and recommend a plan to meet the continuation or development of programs and resources.~~

~~(e) Nothing contained in this chapter shall be construed to diminish the rights of children with disabilities, their parents, guardians, or surrogate parents under federal or state law, including but not limited to confidentiality, consent for services and evaluation, and parental involvement.~~

~~(f)(e) Nothing contained in this chapter shall entitle children and adolescents with a severe emotional disturbance to special education services unless they are otherwise eligible for such services under state or federal law.~~

~~(g)(f) Except as otherwise provided in ~~chapter 55~~ chapters 51, 52, and 53 of this title, the receipt of appropriate services for a child or adolescent with a severe emotional disturbance or the child or adolescent's family, including an out-of-home placement, shall not be conditioned on placement of the child or adolescent in the legal custody, protective supervision, or protection of the~~

~~department of social and rehabilitation services~~ Department for Children and Families.

Sec. 73. REPEAL

33 V.S.A. chapter 45 (Children's Comprehensive Dental Health Program)
is repealed.

Sec. 74. 33 V.S.A. § 4902 is amended to read:

§ 4902. DEFINITIONS

Unless otherwise specifically provided, ~~the following words and phrases~~ as used in this chapter mean:

(1) ~~Child:~~ "Child" means a person under the age of 18 years of age committed by the Juvenile Court to the Department for Children and Families prior to April 14, 1974 and to the Department for Children and Families thereafter, except that for the purpose of subchapter 1 of chapter 35 of this title, a child is a person under the age of 16 years.

(2) ~~Child care facility:~~ any place or program operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care, and supervision of children under 16 years of age outside their homes for periods of less than 24 hours a day by a person other than a child's own parent, guardian, or relative, as defined by rules adopted by the Department for Children and Families, but not including

~~a kindergarten approved by the State Board of Education. “Commissioner”
means the Commissioner for Children and Families.~~

~~(3) A family child care home: is a child care facility which provides for
care on a regular basis in the caregiver’s own residence for not more than 10
children at any one time. Of this number, up to six children may be provided
care on a full time basis and the remainder on a part time basis. For the
purpose of this subdivision, care of a child on a part time basis shall mean
care of a school age child for not more than four hours a day. These limits
shall not include children who reside in the residence of the caregiver; except:~~

~~(A) these part time school age children may be cared for on a
full day basis during school closing days, snow days and vacation days which
occur during the school year; and~~

~~(B) during the school summer vacation, up to 12 children may be
cared for provided that at least six of these children are school age and a
second staff person is present and on duty when the number of children in
attendance exceeds six. These limits shall not include children who are
required by law to attend school (age seven and older) and who reside in the
residence of the caregiver. “Department” means the Department for Children
and Families.~~

~~(4) Foster care: “Foster care” means care of a child, for a valuable consideration, in a ~~child care~~ child care institution or in a family other than that of the child’s parent, guardian, or relative.~~

~~(5) Commissioner: the Commissioner for Children and Families.~~

~~(6) Department: the Department for Children and Families.~~

Sec. 75. 33 V.S.A. § 4905 is added to read:

§ 4905. FOSTER CARE AND PLACEMENT LICENSING

(a) A person other than an employee of a department within the Agency of Human Services shall not place any child in foster care for more than 15 consecutive days unless the person has a license from the Department to do so or is an employee of a child-placing agency licensed by that Department.

(b) A person shall not receive, board, or keep any child in foster care for more than 15 consecutive days unless he or she has a license from the Department to do so. This subsection shall not apply to foster homes approved by a department within the Agency of Human Services or by a licensed child-placing agency, nor shall it apply to those facilities where educational or vocational training is the primary service and foster care is a supportive service only.

(c) This section shall not restrict the right of a court, parent, guardian, or relative to place a child, nor the right of a person not in the business of providing foster care or child care to receive, board, and keep a child when a

valuable consideration is not demanded or received for the child's care and maintenance.

Sec. 76. 33 V.S.A. § 4912 is amended to read:

§ 4912. DEFINITIONS

As used in this subchapter:

(1) ~~“Child” means an individual under the age of majority~~ “Abused or neglected child” means a child whose physical health, psychological growth and development, or welfare is harmed or is at substantial risk of harm by the acts or omissions of his or her parent or other person responsible for the child's welfare. An “abused or neglected child” also means a child who is sexually abused or at substantial risk of sexual abuse by any person.

(2) ~~An “abused or neglected child” means a child whose physical health, psychological growth and development or welfare is harmed or is at substantial risk of harm by the acts or omissions of his or her parent or other person responsible for the child's welfare. An “abused or neglected child” also means a child who is sexually abused or at substantial risk of sexual abuse by any person~~ “Assessment” means a response to a report of child abuse or neglect that focuses on the identification of the strengths and support needs of the child and the family and any services they may require to improve or restore their well-being and to reduce the risk of future harm. The child

and family assessment does not result in a formal determination as to whether the reported abuse or neglect has occurred.

(3) ~~“Harm” can occur by:~~

~~(A) Physical injury or emotional maltreatment;~~

~~(B) Failure to supply the child with adequate food, clothing, shelter, or health care. For the purposes of this subchapter, “adequate health care” includes any medical or nonmedical remedial health care permitted or authorized under state law. Notwithstanding that a child might be found to be without proper parental care under chapter 55 of Title 33, a parent or other person responsible for a child’s care legitimately practicing his or her religious beliefs who thereby does not provide specified medical treatment for a child shall not be considered neglectful for that reason alone; or~~

~~(C) Abandonment of the child “Child” means an individual under the age of majority.~~

(4) ~~“Risk of harm” means a significant danger that a child will suffer serious harm other than by accidental means, which harm would be likely to cause physical injury, neglect, emotional maltreatment or sexual abuse “Child Protection Registry” means a record of all investigations that have resulted in a substantiated report on or after January 1, 1992.~~

(5) ~~“A person responsible for a child’s welfare” includes the child’s parent; guardian; foster parent; any other adult residing in the child’s home~~

~~who serves in a parental role; an employee of a public or private residential home, institution or agency; or other person responsible for the child's welfare while in a residential, educational, or child care setting, including any staff person~~ "Emotional maltreatment" means a pattern of malicious behavior which results in impaired psychological growth and development.

(6) ~~"Physical injury" means death, or permanent or temporary disfigurement or impairment of any bodily organ or function by other than accidental means~~ "Harm" can occur by:

(A) Physical injury or emotional maltreatment.

(B) Failure to supply the child with adequate food, clothing, shelter, or health care. As used in this subchapter, "adequate health care" includes any medical or nonmedical remedial health care permitted or authorized under state law. Notwithstanding that a child might be found to be without proper parental care under chapters 51 and 53 of this title, a parent or other person responsible for a child's care legitimately practicing his or her religious beliefs who thereby does not provide specified medical treatment for a child shall not be considered neglectful for that reason alone.

(C) Abandonment of the child.

(7) ~~"Emotional maltreatment" means a pattern of malicious behavior which results in impaired psychological growth and development~~ "Investigation" means a response to a report of child abuse or neglect that

begins with the systematic gathering of information to determine whether the abuse or neglect has occurred and, if so, the appropriate response. An investigation shall result in a formal determination as to whether the reported abuse or neglect has occurred.

(8) ~~“Sexual abuse” consists of any act or acts by any person involving sexual molestation or exploitation of a child including but not limited to incest, prostitution, rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts a sexual conduct, sexual excitement or sadomasochistic abuse involving a child~~ “Member of the clergy” means a priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, or person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, nun, brother, ordained or licensed minister, leader of any church or religious body, or accredited Christian Science practitioner.

(9) ~~“Multidisciplinary team” means a group of professionals, paraprofessionals, and other appropriate individuals, empanelled~~ impaneled by the Commissioner under this chapter; for the purpose of assisting in the identification and review of cases of child abuse and neglect, coordinating

treatment services for abused and neglected children and their families, and promoting child abuse prevention.

(10) ~~“Substantiated report” means that the Commissioner or the Commissioner’s designee has determined after investigation that a report is based upon accurate and reliable information that would lead a reasonable person to believe that the child has been abused or neglected~~ “Person responsible for a child’s welfare” includes the child’s parent, guardian, foster parent, any other adult residing in the child’s home who serves in a parental role, an employee of a public or private residential home, institution, or agency, or other person responsible for the child’s welfare while in a residential, educational, or child care setting, including any staff person.

(11) ~~[Repealed.]~~ “Physical injury” means death or permanent or temporary disfigurement or impairment of any bodily organ or function by other than accidental means.

(12) ~~“Member of the clergy” means a priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, nun, brother, ordained or licensed minister, leader of any church or religious body, or accredited Christian Science practitioner~~ “Redacted investigation file” means the intake report, the investigation

activities summary, and case determination report that are amended in accordance with confidentiality requirements set forth in section 4913 of this title.

~~(13) “Redacted investigation file” means the intake report, the investigation activities summary, and case determination report that are amended in accordance with confidentiality requirements set forth in subsection 4913(d) of this title~~ “Registry record” means an entry in the Child Protection Registry that consists of the name of an individual substantiated for child abuse or neglect, the date of the finding, the nature of the finding, and at least one other personal identifier, other than a name, listed in order to avoid the possibility of misidentification.

~~(14) “Child Protection Registry” means a record of all investigations that have resulted in a substantiated report on or after January 1, 1992~~ “Risk of harm” means a significant danger that a child will suffer serious harm other than by accidental means, which harm would be likely to cause physical injury, neglect, emotional maltreatment, or sexual abuse.

~~(15) “Registry record” means an entry in the Child Protection Registry that consists of the name of an individual substantiated for child abuse or neglect, the date of the finding, the nature of the finding, and at least one other personal identifier, other than a name, listed in order to avoid the possibility of misidentification~~ “Sexual abuse” consists of any act or acts by any person

involving sexual molestation or exploitation of a child, including incest, prostitution, rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child.

~~(16) “Investigation” means a response to a report of child abuse or neglect that begins with the systematic gathering of information to determine whether the abuse or neglect has occurred and, if so, the appropriate response. An investigation shall result in a formal determination as to whether the reported abuse or neglect has occurred~~ “Substantiated report” means that the Commissioner or the Commissioner’s designee has determined after investigation that a report is based upon accurate and reliable information that would lead a reasonable person to believe that the child has been abused or neglected.

~~(17) “Assessment” means a response to a report of child abuse or neglect that focuses on the identification of the strengths and support needs of the child and the family, and any services they may require to improve or restore their well being and to reduce the risk of future harm. The child and~~

~~family assessment does not result in a formal determination as to whether the reported abuse or neglect has occurred.~~

Sec. 77. 33 V.S.A. § 4915a(c) is amended to read:

(c) Families have the option of declining the services offered as a result of the assessment. If the family declines the services, the case shall be closed unless the Department determines that sufficient cause exists to begin an investigation or to request the ~~state's attorney~~ State's Attorney to file a petition pursuant to ~~chapter 55~~ chapters 51 and 53 of this title. In no instance shall a case be investigated solely because the family declines services.

Sec. 78. 33 V.S.A. § 5922 is amended to read:

§ 5922. APPROPRIATE PUBLIC AUTHORITIES

The "appropriate public authorities" as used in Article II of the Interstate Compact on the Placement of Children shall, with reference to this ~~state~~ State, mean the ~~department of social and rehabilitation services~~ Department for Children and Families, and ~~said department~~ the Department shall receive and act with reference to notices required by ~~said~~ Article III.

Sec. 79. 33 V.S.A. § 5923 is amended to read:

§ 5923. COMMISSIONER OF SOCIAL AND REHABILITATION

SERVICES FOR CHILDREN AND FAMILIES

As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving

state” with reference to this state State shall mean the ~~commissioner of social and rehabilitation services~~ Commissioner for Children and Families.

Sec. 80. [Deleted.]

Sec. 81. 33 V.S.A. § 6506 is amended to read:

§ 6506. POSTING

A physician who treats Medicare or General Assistance beneficiaries shall post a summary of the provisions of this chapter in a conspicuous place in his or her office. The summary shall include the statement that any person aggrieved by a physician’s failure to comply with the provisions of this chapter may contact the Department of Disabilities, Aging, and Independent Living for assistance or file a complaint with the ~~Division of Registration, Licensing and Secretarial Services~~ State Board of Medical Practice within the ~~Office of the Secretary of State~~ Department of Health and shall include toll-free telephone numbers to be used for these purposes. The summary shall be written by the Department of Disabilities, Aging, and Independent Living and distributed by the Secretary of State.

Sec. 82. 33 V.S.A. § 6507 is amended to read:

§ 6507. ADMINISTRATION; ENFORCEMENT

(a) A person aggrieved by a violation of the provisions of this chapter may file a complaint with the ~~division of registration, licensing and secretarial services~~ State Board of Medical Practice within the ~~office of the secretary of~~

~~state Department of Health. The matter shall be heard investigated by the secretary of state, or a hearing officer designated by the secretary, Board and shall be subject to the provisions of 3 V.S.A. chapter 25 of Title 3, relating to contested cases.~~

~~(b) The secretary of state or the hearing officer Board of Medical Practice may, after hearing, impose an administrative penalty of not more than \$50.00 against any physician who violates the provisions of sections section 6505 or 6506 of this title relating to assistance and posting.~~

~~(c) The secretary of state or the hearing officer Board of Medical Practice may, after hearing, order a physician who balance billed in violation of the provisions of this chapter to make restitution of any monies received from a Medicare or general assistance beneficiary as a result of such billing.~~

Sec. 83. REPEAL

33 V.S.A. § 6508 (Medicare billing report required) is repealed.

Sec. 84. 33 V.S.A. § 6902 is amended to read:

§ 6902. DEFINITIONS

As used in this chapter:

(1) "Abuse" means:

(A) Any treatment of a vulnerable adult which places life, health, or welfare in jeopardy or which is likely to result in impairment of health;

(B) Any conduct committed with an intent or reckless disregard that such conduct is likely to cause unnecessary harm, unnecessary pain, or unnecessary suffering to a vulnerable adult;

* * *

(2) "Caregiver" means a person, agency, facility, or other organization with responsibility for providing subsistence or medical or other care to an elderly or disabled adult, who has assumed the responsibility voluntarily, by contract, or by an order of the court; or a person providing care, including medical care, custodial care, personal care, mental health services, rehabilitative services, or any other kind of care provided which is required because of another's age or disability.

* * *

(4) "Department" means the ~~State~~ Vermont Department of Disabilities, Aging, and Independent Living.

* * *

(7) "Neglect" means purposeful or reckless failure or omission by a caregiver to:

(A)(i) provide care or arrange for goods or services necessary to maintain the health or safety of a vulnerable adult, including food, clothing, medicine, shelter, supervision, and medical services, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or his or her

representative, or ~~a terminal care document~~ an advance directive, as defined in ~~subchapter 2 of chapter 111 of Title 18~~ V.S.A. § 9701;

* * *

(iii) carry out a plan of care for a vulnerable adult when such failure results in or could reasonably be expected to result in physical or psychological harm or a substantial risk of death to the vulnerable adult, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or his or her representative, or ~~a terminal care document~~ an advance directive, as defined in ~~subchapter 2 of chapter 111 of Title 18~~ V.S.A. § 9701; or

* * *

(9) “Protective services” means services, action, or intervention that will, through voluntary agreement or through appropriate court action, prevent further neglect, abuse, or exploitation of a vulnerable adult. Such services may include supervision, guidance, counseling, petitioning for appointment of a guardian, and, when necessary, assistance in the securing of safe and sanitary living accommodations. However, nothing in this chapter gives the Commissioner authority to place the vulnerable adult in a state school or hospital, except pursuant to 18 V.S.A. chapter 181 or 206.

* * *

(13) “Volunteer” means an individual who, without compensation, provides services through a private or public organization.

* * *

Sec. 85. 33 V.S.A. § 6903 is amended to read:

*§ 6903. REPORTING SUSPECTED ABUSE, NEGLECT, AND
EXPLOITATION OF VULNERABLE ADULTS*

(a) Any of the following, other than a crisis worker acting pursuant to 12 V.S.A. § 1614, who knows of or has received information of abuse, neglect, or exploitation of a vulnerable adult or who has reason to suspect that any vulnerable adult has been abused, neglected, or exploited shall report or cause a report to be made in accordance with the provisions of section 6904 of this title within 48 hours:

(1) All employees, contractors, and grantees of the Agency of Human Services who are involved in caregiving.

(2) A physician, osteopath, chiropractor ~~or~~, physician assistant, nurse, medical examiner, licensed nursing assistant, emergency medical services personnel, dentist, or psychologist.

(3) A school teacher, school librarian, school administrator, school guidance counselor, school aide, school bus driver, or school employee or school contractor who works regularly with students.

(4) A mental health professional; social worker; person or organization that offers, provides, or arranges for personal care for vulnerable adults; ~~a~~ caregiver employed by a vulnerable adult; employee of or

contractor involved in caregiving for a community mental health center; law enforcement officer; ~~and an~~; or individual who works regularly with vulnerable adults and who is an employee of an adult day care center, area agency on aging, senior center, or meal program designed primarily to serve vulnerable adults.

(5) A hospital, nursing home, residential care home, home health agency, or any entity providing nursing or nursing related services for remuneration; intermediate care facility for adults with mental retardation; therapeutic community residence, group home, developmental home, school, or contractor involved in caregiving; or operator or employee of any of these facilities or agencies.

* * *

Sec. 86. 33 V.S.A. § 6909 is amended to read:

§ 6909. RETALIATORY ACTION BY EMPLOYER PROHIBITED

No employer or supervisor may discharge; demote; transfer; reduce pay, benefits, or work privileges; prepare a negative work performance evaluation; or take any other action detrimental to any employee who files a good faith report in accordance with the provisions of this chapter, by reason of the report. Any person making a report under this chapter shall have a civil cause of action for appropriate compensatory and punitive damages against any

person who causes detrimental changes in the employment status of the reporting party by reason of his or her making a report.

Sec. 87. 33 V.S.A. § 6914 is amended to read:

§ 6914. ACCESS TO CRIMINAL RECORDS

** * **

(b) An employer may ask the Commissioner to obtain from the Vermont ~~Crime~~ Criminal Information Center the record of convictions of a person who is a current employee, volunteer, or contractor, or a person to whom the employer has given a conditional offer of a contract, volunteer position, or employment. The request shall be in writing and shall be accompanied by a release by the current or prospective contractor or employee. If the person has a record of convictions, the Commissioner shall inform the employer of the date and type of conviction.

** * **

(d) The ~~Commissioner of Health, Commissioners of Disabilities, Aging, and Independent Living, of Health, and of Mental Health~~ or ~~the Commissioner's designee~~ their designees may, for purposes related to oversight and monitoring of persons who are served by or compensated with funds provided by the ~~Department~~ Departments of Disabilities, Aging, and Independent Living, of Health, and of Mental Health, ~~may~~ ask the Vermont ~~Crime~~ Criminal Information Center for the record of convictions of a person

who is a current employee, volunteer, or contractor, or a person to whom the employer has given a conditional offer of a contract, volunteer position, or employment. If the individual has a record of convictions, the Vermont ~~Crime~~ Criminal Information Center shall inform the appropriate Commissioner, or the Commissioner's designee, of the date and type of conviction.

* * *

(g) ~~As used in this section, "Commissioner" means the Commissioner of Disabilities, Aging, and Independent Living or the Commissioner of Health, or the Commissioner's designees. [Repealed.]~~

Sec. 88. 33 V.S.A. § 7106(b) is amended to read:

(b) Variances may be granted upon determination that:

* * *

(3) a variance will not result in less protection of the health, safety, and welfare of the residents.

Sec. 89. 33 V.S.A. § 7108(e) is amended to read:

(e) Within the limits of resources available, the licensing agency may provide technical assistance, education, and information to facilities to assist them to come into or remain in compliance with the provisions of this chapter or the rules adopted pursuant to this chapter. The failure of the licensing agency to provide assistance under this subsection shall not relieve a facility

from its duty to comply with provisions of this chapter or the rules adopted pursuant to this chapter.

Sec. 90. 33 V.S.A. § 7116 is amended to read:

§ 7116. CRIMINAL PENALTY

A person who knowingly violates the licensure, reporting of unlicensed facilities, or confidentiality requirements of this chapter or the provisions relating to placing, referring, or recommending placement of a person in an unlicensed facility shall be fined not more than \$500.00 or imprisoned not more than six months, or both.

Sec. 91. 33 V.S.A. § 7117 is amended to read:

§ 7117. RULES

(a) In accordance with 3 V.S.A. chapter 25 of ~~Title 3~~, the ~~secretary of human services~~ Secretary of Human Services may adopt reasonable rules to carry out the provisions of this chapter; and may prescribe minimum standards of care, program, administration, and sanitation for facilities licensed under this chapter.

(b) No later than January 1, 1997, the ~~secretary of human services~~ Secretary of Human Services shall adopt comprehensive rules for licensing of nursing homes to include criteria deemed appropriate by the ~~secretary~~ Secretary, including criteria for accessibility, quality, and safety standards. The rules for nursing home licensing shall:

(1) *require that nursing facilities provide the care and services necessary to help each resident attain or maintain the highest practicable physical, mental, and psychosocial well-being in accordance with a comprehensive assessment and plan of care and prevailing standards of care as determined by the ~~commissioner of aging and disabilities~~ Commissioner of Disabilities, Aging, and Independent Living; and*

(2) *promote a standard of care that assures that the ability of each resident to perform activities of daily living does not diminish unless the resident's ability is diminished solely as a result of a change in the resident's clinical condition.*

Sec. 92. 33 V.S.A. § 7303 is amended to read:

§ 7303. NOTICE TO RESIDENTS; POSTING

(a) A summary of the obligations of the nursing home to residents using its facilities shall be written in clear language, in easily readable print, and posted conspicuously in a public place on each floor of the home. This notice shall also summarize the facility's grievance procedure and directions for contacting the Ombudsman program. The directions for contacting the Ombudsman program shall be written by the Department of Disabilities, Aging, and Independent Living, shall include a description of the Ombudsman program, and shall be underscored.

(b) A readable copy of this same notice shall be presented to each resident on admission together with an oral explanation of the rights, grievance procedure, and directions for contacting the Ombudsman program.

~~*(c) Residents admitted to a nursing home prior to July 1, 1986 shall, within a reasonable period of time after July 1, 1986, receive a readable copy of said notice.*~~

Sec. 93. 33 V.S.A. § 7306(a) is amended to read:

(a) The rights and obligations established under this chapter shall devolve to a resident's reciprocal beneficiary, guardian, next of kin, sponsoring agency, or representative payee (except when the facility itself is a representative payee) if the resident:

** * **

Sec. 94. 33 V.S.A. § 7501 is amended to read:

§ 7501. DEFINITIONS

As used in this chapter:

(1) "Long-term care" means care or services received by an individual in a long-term care facility or provided to an individual under the long-term care Medicaid Section 1115 waiver.

** * **

Sec. 95. 33 V.S.A. § 7508(b) is amended to read:

(b) A person who takes discriminatory, disciplinary, or retaliatory action against an employee, resident, or volunteer of a long-term care facility or agency for any communication made, or information disclosed, to aid the ~~office~~ Office in carrying out its duties and responsibilities, unless the communication or disclosure was done maliciously or without good faith, shall be imprisoned not more than one year, or fined not more than \$5,000.00, or both. An employee, resident, or volunteer of a long-term care facility or agency may seek damages in ~~superior court~~ Superior Court against a person who takes such action prohibited by this subsection.

Sec. 96. 3 V.S.A. § 128(a) is amended to read:

(a) Any hospital, clinic, community mental health center, or other health care institution in which a licensee performs professional services shall report to the appropriate board, along with supporting information and evidence, any disciplinary action taken by it or its staff, after an initial investigation or hearing in which the licensee has been afforded the opportunity to participate, which limits or conditions the licensee's privilege to practice or leads to suspension or expulsion from the institution. The report shall be made within ten days of the date such disciplinary action was taken, regardless of whether the action is the subject of a pending appeal, and in the case of a licensee who is employed by, or under contract with, a community mental health center, a copy of the report shall also be sent to the ~~Commissioner of Mental Health and~~

~~*Mental Retardation*~~ *Commissioner of Mental Health, of Health, or of Disabilities, Aging, and Independent Living, as appropriate.* *This section shall not apply to cases of resignation, separation from service, or changes in privileges which are unrelated to:*

* * *

Sec. 97. 3 V.S.A. § 212 is amended to read:

§ 212. DEPARTMENTS CREATED

The following administrative departments are hereby created, through the instrumentality of which the Governor, under the Constitution, shall exercise such functions as are by law assigned to each ~~department~~ Department respectively:

* * *

(23) The Department of Disabilities, Aging, and Independent Living

(24) The Department of Vermont Health Access.

Sec. 98. REPEAL

3 V.S.A. § 3083 (Department of Developmental and Mental Health Services) is repealed.

Sec. 99. 3 V.S.A. § 3085c is amended to read:

§ 3085c. COMMISSION ON JUVENILE JUSTICE

(a) ~~The commission on juvenile justice~~ Commission on Juvenile Justice is created as a joint venture between the ~~department of social and rehabilitation~~

~~services~~ Department for Children and Families and the ~~department of~~
~~corrections~~ Department of Corrections.

(b) ~~The commission~~ Commission shall be composed of three members:

(1) ~~The juvenile justice director~~ Juvenile Justice Director, who shall be
~~chair~~ Chair of the commission Commission.

(2) ~~The commissioner of the department of social and rehabilitation~~
~~services~~ Commissioner for Children and Families.

(3) ~~The commissioner of the department of corrections~~ Commissioner of
Corrections.

(c) ~~The commission on juvenile justice~~ Commission on Juvenile Justice
shall have the following duties:

(1) To develop a comprehensive system of juvenile justice for persons
under ~~age~~ 21 years of age who commit delinquent or criminal acts, including
utilization of probation services, a range of community-based treatment,
training and rehabilitation programs, and secure detention and treatment
programs when necessary in the interests of public safety, designed with the
objective of preparing those persons to live in their communities as productive
and mature adults. The program developed by the ~~commission~~ Commission
shall be consistent with the policy that a successful juvenile justice system
should:

* * *

(I) *Provide a comprehensive aftercare component, including follow-up and nonresidential ~~postrelease~~ post-release services when juveniles return to their families or communities.*

* * *

(5) *To review or participate in the development of laws, rules, and other governmental initiatives which may affect individuals involved in the juvenile justice system and their families.*

(6) *To provide advice regarding revisions, coordination of services, accountability, and appropriations.*

* * *

(d)(1) *There are established within the ~~commission~~ Commission, and reporting to the ~~juvenile justice director~~ Juvenile Justice Director, the following positions:*

(A) *A ~~prevention specialist~~ Prevention Specialist, responsible for programs intended to reduce delinquency and crime among juvenile offenders, including mentoring programs, early assessments, substance abuse screening, child care services, afterschool programs, and screening for problems which contribute to delinquency and juvenile crime.*

(B) *An ~~alternative sanctions specialist~~ Alternative Sanctions Specialist, responsible for programs providing alternatives to incarceration,*

including court diversion, probation, reparative boards, and community justice programs.

(2) The ~~specialists~~ Specialists designated under subdivision (1) of this subsection shall:

(A) ~~Work~~ work with communities throughout the ~~state~~ State, and analyze data and outcomes, to evaluate the efficiency and success of juvenile justice programs;

(B) ~~Monitor~~ monitor the statewide and cross-departmental consistency and coordination of juvenile justice programs, and the development of the comprehensive system of juvenile justice required by this section; and;

(C) ~~Work~~ work in district offices with probation officers, case workers, and other personnel of the ~~departments of social and rehabilitation services~~ Departments for Children and Families and of ~~corrections~~ Corrections to ensure that ~~state~~ State juvenile justice programs and case plans are administered in a manner consistent with the policies of this section, and with the statutes and rules pertaining to each specialty area.

* * *

Sec. 100. 4 V.S.A. § 311a(17) is amended to read:

(17) Adoption:

(A) if the adopting person or persons are residents of this ~~state~~ State, in the district where they reside; or

(B) if the adopting person or persons are nonresidents, in a court of competent jurisdiction where they reside; or

(C) if the prospective adoptee is a minor who has been relinquished or committed to the ~~department of social and rehabilitation services~~ Department for Children and Families or a licensed child placing agency, in the district where the ~~department~~ Department or agency is located or has its principal office.

Sec. 101. 4 V.S.A. § 464(a) is amended to read:

(a) Any person or other legal entity, including the ~~state~~ State, shall be entitled but not required to be represented by an attorney before a magistrate. Nonattorney employees of the ~~office of child support~~ Office of Child Support who have been duly qualified by the ~~office of child support~~ Office of Child Support may sign complaints and motions, and may participate in child support hearings before a magistrate, including those arising under 33 V.S.A. § ~~5533~~ 5116 subject to the conditions in subsections (b) and (c) of this section. ~~Such~~ This participation shall not be considered the unauthorized practice of law.

Sec. 102. 7 V.S.A. § 505 is amended to read:

§ 505. NOTICE TO PROHIBIT SALES TO CERTAIN PERSONS

The father, mother, husband, wife, child, brother, sister, guardian, or employer of a person ~~or the commissioner of prevention, assistance, transition, and health access,~~ may, in writing, notify any ~~board of control commissioners~~ Board of Control Commissioners as defined in section 2 of this title, who may, on investigation, forbid the sale or furnishing of spirituous liquor or malt ~~and~~ or vinous beverages or both by licensees as defined in section 2 of this title, within the jurisdiction of ~~such board of control commissioners~~ that Board of Control Commissioners to ~~such~~ that person.

Sec. 103. 12 V.S.A. § 5611 is amended to read:

§ 5611. INTEREST OF MINORS

A petition on any matter affecting the interests of a minor under ~~chapter 55 of Title 33~~ V.S.A. chapter 51, 52, or 53, 15 V.S.A. chapter 9 of Title 15, or chapter 107 of this title shall be set down for hearing at the earliest possible time and shall take precedence over all matters except older matters of the same character.

Sec. 104. 12 V.S.A. § 7151(b) is amended to read:

(b) In order to become an emancipated minor by court order under this chapter, a minor at the time of the order must be a person who:

- (1) ~~is~~ is 16 years of age or older but under the age of majority;*

(2) ~~has~~ Has lived separate and apart from his or her parents, custodian, or legal guardian for three months or longer;

(3) ~~is~~ Is managing his or her own financial affairs;

(4) ~~has~~ Has demonstrated the ability to be self-sufficient in his or her financial and personal affairs, including proof of employment or his or her other means of support. "Other means of support" does not include general assistance ~~or Aid to Needy Families with Children, Reach Up financial assistance~~, or relying on the financial resources of another person who is receiving such assistance or aid;

(5) ~~holds~~ Holds a high school diploma or its equivalent or is earning passing grades in an educational program approved by the court and directed ~~towards~~ toward the earning of a high school diploma or its equivalent;

(6) ~~is~~ Is not under a legal guardianship or in the custody ~~or guardianship~~ of the Commissioner for Children and Families;

(7) ~~is~~ Is not under the supervision or in the custody of the Commissioner of Corrections.

Sec. 105. 13 V.S.A. § 1311(c) is amended to read:

(c) Exempt from the prohibitions of this section are:

(1) ~~A~~ a shelter, or the directors, agents, or employees of a shelter, designated by the ~~commissioner for children and families~~ Commissioner for Children and Families pursuant to ~~section 5512 of Title 33~~ V.S.A. § 5304,

*provided that the requirements of ~~subsection 5512(b) of Title 33 V.S.A.~~
§ 5303(b) are satisfied; and*

*(2) A a person who has taken the child into custody pursuant to ~~section~~
~~5510 of Title 33 V.S.A~~ § 5251 or 5301.*

Sec. 106. 13 V.S.A. § 1460(a) is amended to read:

*(a) The general public shall be excluded from hearings held in the Civil
Division of the Superior Court under this chapter where the defendant is under
the age of 16. Only the parties, their counsel, the complainant, witnesses and
other persons accompanying a party for the party's assistance, and such other
persons as the court finds to have a proper interest in the case, or in the work
of the ~~court~~ Court, may be admitted by the Court. In such a case, there shall
be no publicity given by any person to any proceedings under the authority of
this chapter except with the consent of the defendant and his or her parent or
guardian. The records in such a case shall be subject to the confidentiality
provision of 33 V.S.A. ~~§ 5536~~ § 5117. Upon its own motion or the motion of a
party, the Court may open the hearing for good cause shown, in consideration
of relevant factors, including the likelihood that a court would make a
determination that charges against the defendant with respect to the
underlying crime on which the hate-motivated crime injunction is based should
be heard in the Criminal Division of the Superior Court pursuant to 33 V.S.A.
chapter 52.*

Sec. 107. 13 V.S.A. § 4822 is amended to read:

§ 4822. FINDINGS AND ORDER; MENTALLY ILL PERSONS

(a) If the Court finds that ~~such~~ 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, which shall admit the person to the care and custody of the Department of Mental Health for an indeterminate period. 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.

(b) ~~Such~~ An order of commitment issued pursuant to this section shall have the same force and effect as an order issued under 18 V.S.A. §§ 7611–7622, and ~~persons~~ a person committed under ~~such an~~ this order shall have the same status; and the same rights, including the right to receive care and treatment, to be examined and discharged, and to apply for and obtain judicial review of ~~their cases~~ his or her case, as ~~persons~~ a person ordered committed under 18 V.S.A. §§ 7611–7622.

* * *

(d) The Court may continue the hearing provided in subsection (c) of this section for a period of 15 additional days upon a showing of good cause.

(e) If the ~~court~~ Court determines that commitment shall no longer be necessary, it shall issue an order discharging the patient from the custody of the ~~department of developmental and mental health services~~ Department of Mental Health.

(f) The Court shall issue its findings and order not later than 15 days from the date of hearing.

Sec. 108. 13 V.S.A. § 5236(a) is amended to read:

(a) The determination whether a person covered by sections 5231-5234 of this title is a needy person shall be deferred until his or her first appearance in court or in a suit for payment or reimbursement under section 5255 of this title, whichever occurs earlier. Thereafter, the court shall determine, with respect to each proceeding, whether the person is a needy person. ~~For~~ ~~purposes of~~ As used in this section, an appeal is a separate proceeding. The determination of need, for purposes of an appeal, shall be based on a separate application submitted on or after the date of the order appealed from, except that an appeal from a proceeding under 33 V.S.A. chapter 51, 52 of Title 33, or 53 is not a separate proceeding and does not require a separate application.

Sec. 109. 13 V.S.A. § 5318(b) is amended to read:

(b) If a victim is a minor or is incapacitated, incompetent, or deceased, a family member of the victim may exercise the rights of the victim under

sections 5305, 5308-5317, and 7006 of this title; 28 V.S.A. §§ 205, 252, and 507; and 33 V.S.A. § ~~5529a~~ 5233.

Sec. 110. 15 V.S.A. § 653 is amended to read:

§ 653. DEFINITIONS

As used in this subchapter:

** * **

(5) "Gross income" means actual gross income of a parent.

(A) Gross income shall include:

** * **

(B) Gross income shall not include the amount of money received from means tested public assistance programs, including ~~Aid to Families with Dependent Children~~ Temporary Assistance for Needy Families, Supplemental Income, ~~Food Stamps~~ the Supplemental Nutrition Assistance Program, and General Assistance.

** * **

Sec. 111. 15 V.S.A. § 901(c) is amended to read:

(c) In an action under this section against a minor's parents, nothing contained in the record of any juvenile proceeding involving the minor shall be admissible as evidence except as provided in 33 V.S.A. § ~~5536~~ 5117.

Sec. 112. 15 V.S.A. § 1140(b) is amended to read:

(b) The ~~commission~~ Commission shall comprise 17 members, consisting of the following:

- (1) the ~~attorney general~~, Attorney General or ~~his or her~~ designee;*
- (2) the ~~commissioner of the department of health~~, Commissioner of Health or ~~his or her~~ designee;*
- (3) the ~~commissioner of social and rehabilitation services~~, Commissioner for Children and Families or ~~his or her~~ designee;*
- (4) the ~~commissioner of the department of corrections~~, Commissioner of Corrections or ~~his or her~~ designee;*
- (5) the ~~commissioner of the department of public safety~~, Commissioner of Public Safety or ~~his or her~~ designee;*
- (6) the ~~chief medical examiner~~, Chief Medical Examiner or ~~his or her~~ designee;*
- (7) a ~~state's attorney~~ State's Attorney with experience prosecuting domestic violence cases, appointed by the ~~executive director of the Vermont state's attorneys' association~~ Executive Director of the Vermont State's Attorneys' Association;*
- (8) the ~~defender general~~, Defender General or ~~his or her~~ designee;*
- (9) a member of the Vermont ~~coalition of batterer intervention services~~ Coalition of Batterer Intervention Services;*

(10) a member of the Vermont ~~network against domestic violence and sexual assault~~ Network Against Domestic Violence and Sexual Assault
Network Against Domestic and Sexual Violence;

(11) a representative of the Vermont ~~council on domestic violence~~
Council on Domestic Violence;

(12) a representative of local law enforcement, appointed by the
~~governor~~ Governor;

(13) a victim or survivor of domestic violence, appointed by the Vermont
~~network against domestic violence and sexual assault~~ Network Against
Domestic Violence and Sexual Assault Network Against Domestic and Sexual
Violence;

(14) a physician, appointed by the ~~governor~~ Governor;

(15) the ~~executive director~~ Executive Director of the Vermont ~~criminal~~
~~justice training council~~ Criminal Justice Training Council or his or her
designee;

(16) the ~~commissioner of mental health~~ Commissioner of Mental Health
or his or her designee; and

(17) one judge, appointed by the ~~chief justice~~ Chief Justice of the
Vermont ~~supreme court~~ Supreme Court.

Sec. 113. 15 V.S.A. § 1151(5) is amended to read:

(5) “Law enforcement agency” means the Department of Public Safety, a municipal police department, a sheriff’s department, the Attorney General’s Office, a ~~state’s attorney’s office~~ State’s Attorney’s Office, or certified law enforcement officers of the Department of Motor Vehicles, Agency of Natural Resources, or Department of Liquor Control. “Law enforcement agency” shall also mean the Department for Children and Families when engaged in:

(A) the investigation of child abuse and neglect;

(B) the delivery of services to families and children with whom the ~~department~~ Department is working ~~with~~ pursuant to the provisions of 33 V.S.A. ~~chapter 55~~ chapters 51, 52, and 53; or

(C) the performance of the Department’s responsibilities pursuant to an interstate compact to which the State is a party.

Sec. 114. 15A V.S.A. § 1-101(7) is amended to read:

(7) “Department” means the ~~department of social and rehabilitation services~~ Department for Children and Families.

Sec. 115. 18 V.S.A. § 1751 is amended to read:

§ 1751. DEFINITIONS

** * **

(b) ~~For the purposes of~~ As used in this chapter:

** * **

(3) "Child care facility" means a child care facility or family child care home as defined in 33 V.S.A. ~~§ 4902~~ § 3511 that was constructed prior to 1978.

* * *

Sec. 116. 18 V.S.A. § 1754(a) is amended to read:

(a) Beginning January 1, 1994, the ~~commissioner of health~~ Commissioner of Health shall prepare and distribute clear and simple printed materials describing the dangers of lead poisoning, the need for parents to have their child screened, how to have a child tested, and recommended nutrition and housekeeping practices. The ~~commissioner~~ Commissioner shall work with persons and organizations involved in occupations that may involve lead-based paint hazards or childhood lead poisoning to distribute the materials to their clients, patients, students, or customers, such as realtors, subcontractors, apartment owners, public housing authorities, pediatricians, family practitioners, nurse clinics, child clinics, other health care providers, child care and preschool operators, and kindergarten teachers. The ~~commissioner~~ Commissioner shall also identify those points in time or specific occasions when members of the public are in contact with public agencies and lead might be an issue, such as building permits, home renovations, ~~and the ANFC~~ ~~and~~ WIC program, and programs established under 33 V.S.A. chapters 10, 11, and 12, and make the materials available on these occasions.

Sec. 117. 18 V.S.A. § 1758(c) is amended to read:

(c) The ~~department of for children and families~~ Department for Children and Families shall identify all child care facilities in which the owners have completed essential maintenance practices or lead hazard control measures and provide the findings to the ~~department~~ Department annually.

Sec. 118. 18 V.S.A. chapter 94 is added to read:

CHAPTER 94. DIVISION OF ALCOHOL AND
DRUG ABUSE PROGRAMS

§ 4801. DECLARATION OF POLICY

(a) It is the policy of the State of Vermont that alcoholism and alcohol abuse are correctly perceived as health and social problems rather than criminal transgressions against the welfare and morals of the public.

(b) The General Assembly therefore declares that:

(1) alcoholics and alcohol abusers shall no longer be subjected to criminal prosecution solely because of their consumption of alcoholic beverages or other behavior related to consumption which is not directly injurious to the welfare or property of the public; and

(2) alcoholics and alcohol abusers shall be treated as sick persons and shall be provided adequate and appropriate medical and other humane rehabilitative services congruent with their needs.

§ 4802. DEFINITIONS

As used in this chapter:

(1) “Alcoholic” means a person suffering from the condition of alcoholism.

(2) “Alcoholism” means addiction to the drug alcohol. It is characterized by:

(A) chronic absence of control by the drug user over the frequency or the volume of his or her alcohol intake; and

(B) inability of the drug user to moderate consistently his or her drinking practices in spite of the onset of a variety of consequences deleterious to his or her health.

(3) “Approved substance abuse treatment program” means a treatment program which is approved by the Secretary as qualified to provide treatment for substance abuse.

(4) “Client” means a person who is provided treatment services by an approved substance abuse treatment program, substance abuse crisis team, or designated substance abuse counselor.

(5) “Designated substance abuse counselor” means a person approved by the Secretary to evaluate and treat substance abusers, pursuant to the provisions of this chapter.

(6) “Detoxification” means the planned withdrawal of an individual from a state of acute or chronic intoxication under qualified supervision and

with or without the use of medication. Detoxification is monitoring and management of the physical and psychological effects of withdrawal, for the purpose of assuring safe and rapid return of the individual to normal bodily and mental functioning.

(7) "Incapacitated" means that a person, as a result of his or her use of alcohol or other drugs, is in a state of intoxication or of mental confusion resulting from withdrawal such that the person:

(A) appears to need medical care or supervision by approved substance abuse treatment personnel, as defined in this section, to assure his or her safety; or

(B) appears to present a direct active or passive threat to the safety of others.

(8) "Intoxicated" means a condition in which the mental or physical functioning of an individual is substantially impaired as a result of the presence of alcohol or other drugs in his or her system.

(9) "Law enforcement officer" means a law enforcement officer certified by the Vermont Criminal Justice Training Council as provided in 20 V.S.A. §§ 2355–2358 or appointed by the Commissioner of Public Safety as provided in 20 V.S.A. § 1911.

(10) "Licensed hospital" means a hospital licensed under chapter 43 of this title.

(11) “Protective custody” means a civil status in which an incapacitated person is detained by a law enforcement officer for the purposes of:

(A) assuring the safety of the individual or the public, or both; and

(B) assisting the individual to return to a functional condition.

(12) “Secretary” means the Secretary of Human Services or the Secretary’s designee.

(13) “Substance abuse crisis team” means an organization approved by the Secretary to provide emergency treatment and transportation services to substance abusers pursuant to the provisions of this chapter.

(14) “Substance abuser” means anyone who drinks alcohol or consumes other drugs to an extent or with a frequency which impairs or endangers his or her health or the health and welfare of others.

(15) “Treatment” means the broad range of medical, detoxification, residential, outpatient, aftercare, and follow-up services which are needed by substance abusers and may include a variety of other medical, social, vocational, and educational services relevant to the rehabilitation of these persons.

§ 4803. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS;

PER DIEM

(a) The Alcohol and Drug Abuse Council is established within the Agency of Human Services to promote the reduction of problems arising from alcohol and drug abuse by advising the Secretary on policy areas that can inform Agency programs.

(b) The Council shall consist of 11 members:

(1) the Secretary of Human Services, Commissioner of Public Safety, Secretary of Education, Commissioner of Liquor Control, and Commissioner of Motor Vehicles, or their designees;

(2) one member shall be a member of a mental health or substance abuse agency who shall be appointed by the Governor; and

(3) five members shall be appointed by the Governor of which every consideration shall be given, if possible, to equal geographic apportionment. Consideration will be given for one of these members to be a certified practicing teacher and one of these members to be a school administrator.

(c) The term of office of members appointed pursuant to subdivisions (b)(2) and (3) of this section shall be three years.

(d) The Council membership shall annually elect a member to serve as chairperson.

(e) All members shall be voting members.

(f) At the expiration of the term of an appointed member or in the event of a vacancy during an unexpired term, the new member shall be appointed in the same manner as his or her predecessor. Members of the Council may be reappointed.

(g) Each member of the Council not otherwise receiving compensation from the State of Vermont or any political subdivision thereof shall be entitled to receive per diem compensation as provided in 32 V.S.A. § 1010(b). Each member shall be entitled to his or her actual and necessary expenses.

§ 4804. ADMINISTRATIVE SUPPORT

The Agency of Human Services shall provide the Council with such administrative support as is necessary for it to accomplish the purposes of this chapter.

§ 4805. DUTIES

The Council shall:

(1) advise the Governor as to the nature and extent of alcohol and drug abuse problems and the programs necessary to understand, prevent, and alleviate those problems;

(2) make recommendations to the Governor for developing a comprehensive and coordinated system for delivering effective programs, including any appropriate reassignment of responsibility for such programs;

(3) provide for coordination and communication among the regional alcohol and drug abuse councils, State agencies and departments, providers, consumers, consumer advocates, and interested citizens;

(4) jointly, with the State Board of Education, develop educational and preventive programs; and

(5) develop a five-year plan for effectively providing preventive, education, and treatment services to the Vermont public.

§ 4806. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS

(a) The Division of Alcohol and Drug Abuse Programs shall plan, operate, and evaluate a consistent, effective program of substance abuse programs. All duties, responsibilities, and authority of the Division shall be carried out and exercised by and within the Department of Health.

(b) The Division shall be responsible for the following services:

(1) prevention and intervention;

(2) licensure of alcohol and drug counselors;

(3) project CRASH schools; and

(4) alcohol and drug treatment.

(c) Under the direction of the Commissioner of Health, the Deputy Commissioner of Alcohol and Drug Abuse Programs shall review and approve all alcohol and drug programs developed or administered by any State agency or department, except for alcohol and drug education programs developed by

the Agency of Education in conjunction with the Alcohol and Drug Abuse Council pursuant to 16 V.S.A. § 909.

(d) Any federal or private funds received by the State for purposes of subdivision (b)(4) of this section shall be in the budget of and administered by the Department of Health.

(e) Under subdivision (b)(4) of this section, the Commissioner of Health may contract with the Secretary of State for provision of adjudicative services of one or more administrative law officers and other investigative, legal, and administrative services related to licensure and discipline of alcohol and drug counselors.

§ 4807. AUTHORITY AND ACCOUNTABILITY FOR ALCOHOLISM SERVICES; RULES FOR ACCEPTANCE INTO TREATMENT

(a) The Secretary shall have the authority and accountability for providing or arranging for the provision of a comprehensive system of alcoholism prevention and treatment services.

(b) All State funds appropriated specifically for the prevention and treatment of alcoholism and any federal or private funds which are received by the State for these purposes shall be in the budget of and be administered by a single governmental unit designated by the Secretary. This provision does not apply to the programs of the Department of Corrections.

(c) The Secretary shall adopt rules and standards under 3 V.S.A. chapter 25 for the implementation of the provisions of this chapter. In establishing rules regarding admissions to alcohol treatment programs, the Secretary shall adhere to the following guidelines:

(1) A client shall be initially assigned or transferred to outpatient treatment, unless he or she is found to require medical treatment, detoxification, or residential treatment.

(2) A person shall not be denied treatment solely because he or she has withdrawn from treatment against medical advice on a prior occasion or because he or she has relapsed after earlier treatment.

(3) An individualized treatment plan shall be prepared and maintained on a current basis for each client.

(4) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a program or a form of treatment shall have available and use other appropriate treatment.

§ 4808. TREATMENT AND SERVICES

(a) When a law enforcement officer encounters a person who, in the judgment of the officer, is intoxicated as defined in section 4802 of this title, the officer may assist the person, if he or she consents, to his or her home, to an approved substance abuse treatment program, or to some other mutually agreeable location.

(b) When a law enforcement officer encounters a person who, in the judgment of the officer, is incapacitated as defined in section 4802 of this title, the person shall be taken into protective custody by the officer. The officer shall transport the incapacitated person directly to an approved substance abuse treatment program with detoxification capabilities or to the emergency room of a licensed general hospital for treatment, except that if a substance abuse crisis team or a designated substance abuse counselor exists in the vicinity and is available, the person may be released to the team or counselor at any location mutually agreeable between the officer and the team or counselor. The period of protective custody shall end when the person is released to a substance abuse crisis team, a designated substance abuse counselor, a clinical staff person of an approved substance abuse treatment program with detoxification capabilities, or a professional medical staff person at a licensed general hospital emergency room. The person may be released to his or her own devices if, at any time, the officer judges him or her to be no longer incapacitated. Protective custody shall in no event exceed 24 hours.

(c) If an incapacitated person is taken to an approved substance abuse treatment program with detoxification capabilities and the program is at capacity, the person shall be taken to the nearest licensed general hospital emergency room for treatment.

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

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

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

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

(f) No lockup or community correctional center shall refuse to admit an incapacitated person in protective custody whose admission is requested by a law enforcement officer, in compliance with the conditions of this section.

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

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

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

(j) Law enforcement officers or persons responsible for supervision in a lockup or community correctional center or members of a substance abuse crisis team or designated substance abuse counselors who act under the

authority of this section are acting in the course of their official duty and are not criminally or civilly liable therefor, unless for gross negligence or willful or wanton injury.

Sec. 118a. 18 V.S.A. § 4808 is amended to read:

§ 4808. TREATMENT AND SERVICES

* * *

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

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

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

(e) No person shall be lodged in a ~~lockup or community correctional center~~ secure facility under subsection (d) of this section without first being evaluated

and found to be indeed incapacitated by a substance abuse crisis team, a designated substance abuse counselor, a clinical staff person of an approved substance abuse treatment program with detoxification capabilities, or a professional medical staff person at a licensed general hospital emergency room.

(f) ~~No lockup or community correctional center shall~~ A lockup not operated by the Department of Corrections shall not refuse to admit an incapacitated person in protective custody whose admission is requested by a law enforcement officer, in compliance with the conditions of this section.

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

(h) If an incapacitated person in protective custody is lodged in a ~~lockup or community correctional center~~ secure facility, his or her family or next of kin

shall be notified as promptly as possible. If the person is an adult and requests that there be no notification, his or her request shall be respected.

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

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

Sec. 118b. 18 V.S.A. § 4809 is added to read:

§ 4809. INCARCERATION FOR INEBRIATION PROHIBITED

A person who has not been charged with a crime shall not be incarcerated in a facility operated by the Department of Corrections on account of the person's inebriation.

Sec. 119. 18 V.S.A. § 5087 is amended to read:

§ 5087. ESTABLISHMENT OF BIRTH INFORMATION NETWORK

* * *

~~(c) The commissioner of health shall refer to the report submitted to the general assembly by the birth information council, pursuant to section 5086 of this title, for the purpose of establishing guiding principles for the research~~

~~and decision-making necessary for the development of the birth information network.~~ [Repealed.]

* * *

Sec. 120. [Deleted.]

Sec. 121. 18 V.S.A. § 9504(g) is amended to read:

(g) No member of the ~~board~~ Board shall have any direct or knowing affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries, or its parent company. ~~All board members~~ Each board member shall file a conflict of interest statement, stating that he or she has no such affiliation or contractual relationship.

Sec. 122. 18 V.S.A. § 9505 is amended to read:

§ 9505. GENERAL POWERS AND DUTIES

The ~~board~~ Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this section, and shall:

* * *

(5) review and make recommendations ~~to~~ regarding the overall plan and any memorandum of understanding developed jointly by the ~~department of health~~ Department of Health and ~~department of education~~ Agency of Education for school-based programs funded through the ~~tobacco program fund~~ Tobacco Program Fund;

(6) review and make recommendations ~~to~~ regarding enforcement activities administered by the ~~department of liquor control~~ Department of Liquor Control in accordance with the provisions of this chapter;

(7) review and advise any ~~state~~ State agency, on applications for funds contributed from any outside sources that are designated for purposes of reducing tobacco use;

(8) in collaboration with the ~~agency~~ Agency and ~~department~~ Department, ~~annually~~ organize a minimum of two public meetings by September 15 of each year, to receive public input and advice for setting program priorities and establishing an annual program budget;

(9) conduct jointly with the ~~secretary~~ Secretary a review of the ~~department's~~ Department's proposed annual budget for the program, including funds contributed from any outside sources that are designated for purposes of reducing tobacco use, and submit independent recommendations to the ~~governor~~ Governor, ~~joint fiscal committee~~ Joint Fiscal Committee, and ~~committee on appropriations of the house of representatives and the senate~~ House and Senate Committees on Appropriations by October 1 of each year;

(10) propose to the ~~department~~ Department strategies for program coordination and collaboration with other ~~state~~ State agencies, ~~nonprofit~~ organizations dedicated to anti-tobacco activities, health care providers and

organizations, community and school groups, nonprofit organizations dedicated to anti-tobacco activities, and other nonprofit organizations;

* * *

Sec. 123. 18 V.S.A. § 9506 is amended to read:

§ 9506. ALLOCATION SYSTEM

(a) In determining the allocation of funds available for the purposes of this chapter, the ~~department~~ Department and the ~~board~~ Board shall consider, ~~but not be limited to, the following~~ all relevant factors, including:

* * *

(b) The ~~department's~~ Department's and ~~board's~~ Board's allocation system shall include a method, developed jointly, that evaluates the need for, and impact and quality of the activities proposed by eligible applicants, including, ~~where~~ if appropriate, measuring the outcomes of the project through reductions in adult and youth smoking rates.

Sec. 124. 18 V.S.A. § 9507 is amended to read:

§ 9507. ANNUAL REPORT

(a) ~~By~~ On or before January 15 of each year, the ~~board~~ Board shall submit a report concerning its activities under this chapter to the ~~governor~~ Governor and the ~~general assembly which~~ General Assembly. The report shall include, to the extent possible, the following:

* * *

Sec. 125. 21 V.S.A. § 1314(e) is amended to read:

(e)(1) Subject to such restrictions as the Board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other ~~state~~ State or the federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, misclassification or miscoding of workers, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The Commissioner may also make information available to colleges, universities, and public agencies of the State for use in connection with research projects of a public service nature, and to the Vermont Economic Progress Council with regard to the administration of 32 V.S.A. chapter 151, subchapter 11E; but no person associated with those institutions or agencies may disclose that information in any manner ~~which~~ that would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by Commissioner.

(A) The Department of Labor shall participate in the income and eligibility verification procedures under ~~Federal Public Law 98-369 (The Deficit Reduction Act of 1984)~~ the Deficit Reduction Act of 1984, Pub. L. No. 98-369, which provides for the exchange of information among state agencies

administering ~~federally-assisted~~ programs for ~~AFDC~~ funded with federal monies provided under the Temporary Assistance for Needy Families (TANF) block grant, Medicaid, ~~Food Stamps~~ Supplemental Nutrition Assistance Program (SNAP), SSI, Unemployment Compensation, and any other state program under a plan approved under Title I, X, XIV, or XVI of the Social Security Act.

(B) The Department of Labor is designated as the Vermont agency for the collection of wage records on workers covered under this chapter, as required by ~~PL 98-369~~ the Deficit Reduction Act of 1984, Pub. L. No. 98-369.

(2)(A)(i) The Department of Labor shall disclose, upon request, to officers or employees of any State or local child support enforcement agency, any wage information or other information material to the location of an individual, the individual's assets, or the individual's place of employment or other source of income contained in the Department's unemployment compensation claim records with respect to an identified individual which is contained in those records.

(ii) The term "State or local child support enforcement agency" means any agency of a State or political subdivision thereof operating pursuant to a plan described in ~~section~~ Section 454 of the Social Security Act, which has been approved by the Secretary of Health and Human Services under part D, Title IV of the Social Security Act.

(B) The requesting agency shall agree that information provided under this subsection is to be used only for the following purposes:

(i) establishing and collecting child support obligations from, and locating, individuals owing such obligations which are being enforced pursuant to a plan described in ~~section~~ Section 454 of the Social Security Act ~~which~~ that has been approved by the Secretary of Health and Human Services under part D, Title IV of the Social Security Act; and

(ii) establishing parentage and expediting procedures relating to establishing parentage pursuant to ~~section~~ Section 466(c)(1) of the Social Security Act as added by ~~section~~ Section 325(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193).

(3)(A) The Department of Labor shall disclose, upon request, to officers and employees of the U.S. Department of Agriculture and any State ~~food-stamp~~ agency, with respect to an identified individual, any of the following information which is contained in its records:

(i) wage information;

(ii) whether the individual is receiving, has received, or has made application for unemployment compensation and the amount of any compensation being received or to be received by such individual;

(iii) *the current or most recent home address of the individual;*
and

(iv) *whether the individual has refused an offer of employment, and if so, a description of the employment offered and the terms, conditions, and rate of pay therefor.*

(B) *The term “~~state food stamp~~ State agency” means any agency described in ~~section (3)(n)(1) of the Food Stamp Act of 1977~~ 7 U.S.C. § 2012(n) which administers the ~~Food Stamp Program~~ Supplemental Nutrition Assistance Program established under ~~such~~ that act.*

(C) *The requesting agency shall agree that such information shall be used only for purposes of determining the applicant’s eligibility for benefits, or the amount of benefits, under the ~~Food Stamp Program~~ Supplemental Nutrition Assistance Program established under ~~the Food Stamp Act of 1977~~ 7 U.S.C. chapter 51.*

(D) *The information shall not be released unless the requesting agency agrees to reimburse the costs involved for furnishing such information.*

(E) *In addition to the requirements of this subdivision, all other requirements with respect to confidentiality of information obtained in the administration of this chapter and the sanctions imposed for improper disclosure of information obtained in the administration of this chapter shall*

apply to the use of such information by the officers and employees of any ~~food stamp~~ State agency or the U.S. Department of Agriculture.

* * *

Sec. 126. 21 V.S.A. § 1367b is amended to read:

§ 1367b. ~~FOOD-STAMP~~ SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM INTERCEPT OF UNEMPLOYMENT BENEFITS

(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether ~~or not~~ he or she owes an uncollected ~~over-issuance (as defined in section 13(c)(1) of the Food Stamp Act of 1977)~~ overissuance of food stamp coupons Supplemental Nutrition Assistance Program benefits as defined in 7 U.S.C. § 2022(c)(1). The ~~commissioner~~ Commissioner shall notify the ~~state food stamp~~ State agency administering the Supplemental Nutrition Assistance Program enforcing such obligation of any individual who discloses that he or she owes an uncollected ~~over-issuance~~ overissuance of food stamp coupons Supplemental Nutrition Assistance Program benefits and who is determined to be eligible for unemployment compensation.

(b) Notwithstanding the provisions of sections 1366 and 1367 of this title, the ~~commissioner~~ Commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes an

~~uncollected over-issuance~~ overissuance of food stamp coupons Supplemental Nutrition Assistance Program Benefits:

(1) ~~the amount specified by the individual to the commissioner~~ Commissioner to be deducted and withheld under this section; or

(2) ~~the amount (if any), if any,~~ determined pursuant to an agreement submitted to the state food stamp State agency administering the Supplemental Nutrition Assistance Program under section 13(e)(3)(A) of the Food Stamp Act of 1977 7 U.S.C. § 2022(c)(3)(A); or

(3) ~~any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to section 13(e)(3)(B) of the Food Stamp Act of 1977~~ 7 U.S.C. § 2022(c)(3)(B).

(c) ~~Any amount deducted and withheld under subsection (b) of this section shall be paid by the commissioner~~ Commissioner to the appropriate state food stamp State agency administering the Supplemental Nutrition Assistance Program.

(d) ~~Any amount deducted and withheld under subsection (b) of this section shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state food stamp State agency administering the Supplemental Nutrition Assistance Program as repayment of the individual's uncollected over-issuance~~

overissuance of food stamp coupons Supplemental Nutrition Assistance Program benefits.

(e) ~~For purposes of~~ As used in this section, the term “unemployment compensation” means any compensation payable under this chapter; and any federal benefit payments made pursuant to agreements with the ~~United States~~ U.S. Department of Labor.

(f) This section applies only if arrangements have been made for reimbursement by the ~~state food stamp~~ State agency administering the Supplemental Nutrition Assistance Program for the administrative costs incurred by the ~~commissioner~~ Commissioner under this section which are attributable to the repayment of uncollected ~~over-issuances~~ overissuances of food stamp coupons Supplemental Nutrition Assistance Program benefits to the state State agency administering the Supplemental Nutrition Assistance Program.

(g) Any deduction and withholding authorized by this section shall not exceed 25 percent of the individual’s weekly benefit amount.

Sec. 127. 24 V.S.A. § 4412(5) is amended to read:

(5) *Child care.* A “family child care home or facility” as used in this subdivision means a home or facility where the owner or operator is to be licensed or registered by the State for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted

single-family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in ~~subdivision~~ 33 V.S.A. ~~§ 4902(3)(A)~~ § 3511(7), shall be considered to constitute a permitted use of property but may require site plan approval based on local zoning requirements. A family child care facility serving more than six full-time and four part-time children may, at the discretion of the municipality, be subject to all applicable municipal bylaws.

Sec. 128. 26 V.S.A. chapter 28, subchapter 4 is added to read:

Subchapter 4. Sexual Assault Nurse Examiners

§ 1621. DEFINITION

As used in this subchapter, "SANE" means sexual assault nurse examiner.

§ 1622. SANE BOARD

(a) The SANE Board is created for the purpose of regulating sexual assault nurse examiners.

(b) The SANE Board shall be composed of the following members:

(1) the Executive Director of the Vermont State Nurses Association or designee;

(2) the President of the Vermont Association of Hospitals and Health Systems;

(3) the Director of the Vermont Forensic Laboratory or designee;

(4) the Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(5) an attorney with experience prosecuting sexual assault crimes, appointed by the Attorney General;

(6) the Executive Director of the Vermont Center for Crime Victim Services or designee;

(7) a law enforcement officer assigned to one of Vermont's special units of investigation, appointed by the Commissioner of Public Safety;

(8) a law enforcement officer employed by a municipal police department, appointed by the Executive Director of the Vermont Criminal Justice Training Council;

(9) three sexual assault nurse examiners, appointed by the Attorney General;

(10) a physician whose practice includes the care of victims of sexual assault, appointed by the Vermont Medical Society;

(11) a pediatrician whose practice includes the care of victims of sexual assault, appointed by the Vermont Chapter of the American Academy of Pediatrics;

(12) the Coordinator of the Vermont Victim Assistance Program or designee;

(13) the President of the Vermont Alliance of Child Advocacy Centers or designee;

(14) the Chair of the Vermont State Board of Nursing or designee; and

(15) the Commissioner for Children and Families or designee.

§ 1623. SANE PROGRAM CLINICAL COORDINATOR

A grant program shall be established by the Vermont Center for Crime Victim Services, subject to available funding, to fund a clinical coordinator position for the purpose of staffing the SANE program. The position shall be contracted through the Vermont Network Against Domestic and Sexual Violence. The clinical coordinator shall consult with the SANE board in performing the following duties:

(1) overseeing the recruitment and retention of SANEs in the State of Vermont;

(2) administering a statewide training program, including:

(A) the initial SANE certification training;

(B) ongoing training to ensure currency of practice for SANEs; and

(C) advanced training programs as needed;

(3) providing consultation and technical assistance to SANEs and hospitals regarding the standardized sexual assault protocol; and

(4) providing training and outreach to criminal justice and community-based agencies as needed.

§ 1624. SANE BOARD; DUTIES

(a) A person licensed under this chapter may obtain a specialized certification as a sexual assault nurse examiner if he or she demonstrates compliance with the requirements for specialized certification as established by the SANE Board by rule.

(b) The SANE Board shall adopt the following by rule:

(1) educational requirements for obtaining specialized certification as a sexual assault nurse examiner and statewide standards for the provision of education;

(2) continuing education requirements and clinical experience necessary for maintenance of the SANE specialized certification;

(3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses;

(4) a system of monitoring for compliance; and

(5) processes for investigating complaints, revoking certification, and appealing decisions of the Board.

(c) The SANE board may investigate complaints against a sexual assault nurse examiner and may revoke certification as appropriate.

Sec. 129. 26 V.S.A. chapter 62 is added to read:

CHAPTER 62. ALCOHOL AND DRUG ABUSE COUNSELORS

§ 3231. DEFINITIONS

As used in this chapter:

(1) “Alcohol and drug abuse counselor” means a person who engages in the practice of alcohol and drug abuse counseling for compensation.

(2) “Commissioner” means the Commissioner of Health.

(3) “Deputy Commissioner” means the Deputy Commissioner of the Division of Alcohol and Drug Abuse Programs.

(4) “Disciplinary action” means any action taken by the administrative law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensee or applicant based on a finding of unprofessional conduct by the licensee or applicant. “Disciplinary action” includes issuance of warnings and all sanctions, including denial, suspension, revocation, limitation, or restriction of licenses and other similar limitations.

(5) “Practice of alcohol and drug abuse counseling” means the application of methods, including psychotherapy, which assist an individual or group to develop an understanding of alcohol and drug abuse dependency problems and to define goals and plan actions reflecting the individual’s or group’s interests, abilities, and needs as affected by alcohol and drug abuse dependency problems and comorbid conditions.

(6) "Supervision" means the oversight of a person for the purposes of teaching, training, or clinical review by a professional in the same area of specialized practice.

§ 3232. PROHIBITION; PENALTIES

(a) No person shall perform either of the following acts:

(1) practice or attempt to practice alcohol and drug abuse counseling without a valid license issued in accordance with this chapter, except as otherwise provided in section 3233 of this title; or

(2) use in connection with the person's name any letters, words, or insignia indicating or implying that the person is an alcohol and drug abuse counselor, unless the person is licensed in accordance with this chapter.

(b) A person who violates any of the provisions of this section shall be subject to the penalties provided in 3 V.S.A. § 127(c).

§ 3233. EXEMPTIONS

The provisions of subdivision 3232(a)(1) of this chapter, relating to the practice of alcohol and drug abuse counseling, shall not apply to:

(1) the activities and services of a rabbi, priest, minister, Christian Science practitioner, or clergy of any religious denomination or sect when engaging in activities that are within the scope of the performance of the person's regular or specialized ministerial duties and for which no separate charge is made, or when these activities are performed, with or without

charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally recognizable church, denomination, or sect and when the person rendering services remains accountable to the established authority of that church, denomination, or sect;

(2) the activities and services of a person licensed, certified, or registered under other laws of this State while acting within the scope of his or her profession or occupation, provided the person does not hold himself or herself out to the public as possessing a license issued pursuant to this chapter;

(3) the activities and services of a student intern or trainee in alcohol and drug abuse counseling who is pursuing a course of study in an accredited institution of higher education or a training course approved by the Director, provided these activities are performed under supervision of and constitute a part of an approved course of study;

(4) the activities and services of approved alcohol and drug abuse counselors who are working under the supervision of a licensed alcohol and drug abuse counselor; or

(5) a person acting as a member of a voluntary group of individuals who offer peer support to each other in recovering from an addiction.

§ 3234. COORDINATION OF PRACTICE ACTS

Notwithstanding any provision of law to the contrary, a person may practice psychotherapy when acting within the scope of a license granted under this chapter, provided he or she does not hold himself or herself out as a practitioner of a profession for which he or she is not licensed.

§ 3235. DEPUTY COMMISSIONER; DUTIES

(a) The Deputy Commissioner shall:

(1) provide general information to applicants for licensure as alcohol and drug abuse counselors;

(2) administer fees collected under this chapter;

(3) administer examinations;

(4) explain appeal procedures to licensees and applicants for licensure;

(5) receive applications for licensure under this chapter; issue and renew licenses; and revoke, suspend, reinstate, or condition licenses as ordered by an administrative law officer; and

(6) contract with the Office of Professional Regulation to adopt and explain complaint procedures to the public, manage case processing, investigate complaints, and refer adjudicatory proceedings to an administrative law officer.

(b) The Commissioner of Health, with the advice of the Deputy Commissioner, may adopt rules necessary to perform the Deputy Commissioner's duties under this section.

§ 3236. ELIGIBILITY

To be eligible for licensure as an alcohol and drug abuse counselor, an applicant shall:

(1) have received a master's degree or doctorate in a human services field from an accredited educational institution, including a degree in counseling, social work, psychology, or in an allied mental health field, or a master's degree or higher in a health care profession regulated under this title or Title 33, after having successfully completed a course of study with course work, including theories of human development, diagnostic and counseling techniques, and professional ethics, and which includes a supervised clinical practicum; and

(2) have been awarded an approved counselor credential from the division of alcohol and drug abuse programs in accordance with rules adopted by the Commissioner.

§ 3237. APPLICATION

An individual may apply for a license under this chapter by filing, with the Deputy Commissioner, an application provided by the Deputy Commissioner.

The application shall be accompanied by the required fees and evidence of eligibility.

§ 3238. BIENNIAL RENEWALS

(a) Licenses shall be renewed every two years upon payment of the required fee, provided the person applying for renewal completes at least 40 hours of continuing education, approved by the Deputy Commissioner, during the preceding two-year period. The Deputy Commissioner shall establish, by rule, guidelines and criteria for continuing education credit.

(b) Biennially, the Deputy Commissioner shall forward a renewal form to each license holder. Upon receipt of the completed form and the renewal fee, the Deputy Commissioner shall issue a new license.

(c) Any application for renewal of a license which has expired shall be accompanied by the renewal fee and a reinstatement fee. A person shall not be required to pay renewal fees for years during which the license was lapsed.

(d) The Commissioner of Health may, after notice and opportunity for hearing, revoke a person's right to renew a license if the license has lapsed for five or more years.

§ 3239. UNPROFESSIONAL CONDUCT

The following conduct and the conduct set forth in 3 V.S.A. § 129a, by a person authorized to provide alcohol and drug abuse services under this chapter or an applicant for licensure, constitutes unprofessional conduct:

(1) violation of any provision of this chapter or rule adopted under this chapter;

(2) failing to use a complete title in professional activity;

(3) conduct which evidences moral unfitness to practice alcohol and drug abuse counseling;

(4) negligent, incompetent, or wrongful conduct in the practice of alcohol and drug abuse counseling;

(5) harassing, intimidating, or abusing a client; or

(6) agreeing with any other person or organization or subscribing to any code of ethics or organizational bylaws when the intent or primary effect of that agreement, code, or bylaw is to restrict or limit the flow of information concerning alleged or suspected unprofessional conduct to the Director.

§ 3240. REGULATORY FEE FUND

(a) An Alcohol and Drug Counselor Regulatory Fee Fund is created. All counselor licensing and examination fees received by the Division shall be deposited into the Fund and used to offset the costs incurred by the Division for these purposes and for the costs of investigations and disciplinary proceedings.

(b) To ensure that revenues derived by the Division are adequate to offset the cost of regulation, the Commissioner of Health and the Deputy

Commissioner shall review fees from time to time and present proposed fee changes to the General Assembly.

§ 3241. FEES

In addition to the fees otherwise authorized by law, the Deputy Commissioner may charge the following fees:

(1) Late renewal penalty, \$25.00 for a renewal submitted less than 30 days late. Thereafter, the Deputy Commissioner may increase the late renewal penalty by \$5.00 for every additional month or fraction of a month, provided that the total penalty for a late renewal shall not exceed \$100.00.

(2) Reinstatement of revoked or suspended license, \$20.00.

(3) Replacement of license, \$20.00.

(4) Verification of license, \$20.00.

(5) An examination fee established by the Deputy Commissioner, which shall be no greater than the costs associated with examinations.

(6) Licenses granted under rules adopted pursuant to 3 V.S.A. § 129(a)(10), \$20.00.

(7) Application for registration, \$75.00.

(8) Application for licensure or certification, \$100.00.

(9) Biennial renewal, \$135.00.

(10) Limited temporary license or work permit, \$50.00.

Sec. 130. 28 V.S.A. § 3(1) is amended to read:

(1) "Child" means any person:

(A) ~~Charged~~ charged with having committed a delinquent act as defined in 33 V.S.A. § 5102 or adjudicated a delinquent and committed to the custody of the Commissioner; or

(B) ~~Charged~~ charged with being or adjudicated unmanageable as defined ~~in~~ by 33 V.S.A. § 5102(3)(C) and (D), and committed to the custody of the Commissioner for Children and Families and subsequently transferred to the custody of the Commissioner;

~~(C) Who has been admitted to the Weeks School upon application pursuant to sections 1151 and 1152 of this title;~~

Sec. 131. 28 V.S.A. § 702(a) is amended to read:

(a) ~~The commissioner~~ Commissioner may transfer any inmate committed to his or her custody between any of the correctional facilities except that the ~~commissioner~~ Commissioner shall not have the authority to transfer a child, as defined in this title, to any facility except in accordance with ~~section 5530 of~~ Title 33 V.S.A. § 5293.

Sec. 132. 28 V.S.A. § 1003 is amended to read:

§ 1003. COMMITMENTS

When process is delivered to an officer to serve, requiring the officer to commit a person to jail to await examination or trial before a ~~district or~~

~~superior court~~ District or Superior Court, if the order for commitment was made within the limits of a town, incorporated village, or a county maintaining a lockup, that person may be committed for not more than 72 hours, unless the time is extended by court order, to the lockup and be subject to the restraints and entitled to the privileges provided by law for persons confined in a correctional facility. A person under 18 years of age charged or convicted of a misdemeanor may not be detained in a lockup used to house inmates over 18 years of age, except as provided in ~~section 5530 of Title 33~~ V.S.A. § 5293.

Sec. 133. 28 V.S.A. § 1101 is amended to read:

§ 1101. **POWERS AND RESPONSIBILITIES OF THE COMMISSIONER
REGARDING JUVENILE SERVICES**

The Commissioner is charged with the following powers and responsibilities regarding the administration of juvenile services:

(1) ~~To~~ to provide appropriate, separate facilities for the custody and treatment of children committed to his or her custody in accordance with the laws of the State;

(2) ~~To~~ to supervise and administer and oversee the maintenance of the facilities, in accordance with the various powers and responsibilities established in the office of Commissioner by this title, by 33 V.S.A. chapter ~~55~~ 52, and by 3 V.S.A. §§ 3052 and 3053;

(3) ~~To~~ to advise, upon request and in his or her discretion, local, state, and federal officials and public and private agencies and lay groups on the needs for and possible methods of the reduction and prevention of delinquency and the treatment of delinquents;

(4) ~~To~~ to cooperate with other agencies whose services deal with the care and treatment of delinquents to the end that children who are committed to the custody of the Commissioner may wherever possible be assisted to a successful adjustment outside institutional care;

(5) ~~To~~ to cooperate with other agencies in surveying, developing, and utilizing the resources of a community as a means of ~~combatting~~ combating the problem of juvenile delinquency and of effectuating rehabilitation; and

(6) ~~To~~ to hold community and State conferences from time to time in order to acquaint the public with current issues of juvenile delinquency;

(7) [Repealed.]

Sec. 134. INTERPRETATION

The technical amendments in this act shall not supersede substantive changes contained in other acts passed by the General Assembly. Where possible, the amendments in this act shall be interpreted to be supplemental to other amendments to the same sections of statute; to the extent the provisions conflict, the substantive changes in other acts shall take precedence over the technical changes in this act.

Sec. 135. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 118a and 118b (amending 18 V.S.A. § 4808 and adding 18 V.S.A. § 4809) shall take effect on July 1, 2014.