



**Vermont Bar Association
Seminar Materials**

Criminal Law Year in Review

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Speakers:

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ACTS OF THE 2018 REGULAR LEGISLATIVE SESSION

Act No. 86. An act relating to eliminating penalties for possession of limited amounts of marijuana by adults 21 years of age or older. (H.511)

Effective Date: July 1, 2018 (except Secs. 17 and 18, findings and effective date respectively)

- Eliminates penalties for possession of <1oz by people over 21.
- Allows unlimited possession in the home of homegrown pot.
- Civil violation for possession by someone under 21.
- New crimes for possession of too much, extraction of hash oil, smoking in cars, smoking near a child, smoking at a child care center, etc.
- Creates a confusing system of punishment for anyone dispensing pot (*sharing a joint*) with a person under 21:
 - A person over 21 who shares with a person under 21 gets 2 years or 5 years if death or SBI results.
 - A person between 18 and 21 who shares with a person between 18 and 21 gets a civil violation.
 - A person between 18 and 21 who shares with a person under 18 who is at least three years younger than the sharer gets 5 years.
 - A person who is 19 who shares with a person who is 17 or a person who is 18 who shares with a person who is 16 or 17 gets a \$500 fine only.
 - A person who is under 18 and shares with anyone under 18 “commits a delinquent act.”

Legislative Summary: This act removes civil and criminal penalties for possession of one ounce of marijuana and two mature and four immature marijuana plants by adults 21 years of age or older. Any marijuana harvested from the plants allowed does not count toward the one-ounce possession limit. Each dwelling unit is limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. Personal cultivation of marijuana may only occur: (A) on property lawfully in the possession of the cultivator or with the written consent of the person in lawful possession of the property; and (B) in an enclosure that is screened from public view and is secure so that access is limited to only the cultivator and persons 21 years of age or older who have permission from the cultivator. Consumption of marijuana in a public place or in a vehicle is prohibited as is possession of an open container of marijuana in a vehicle, and violations are subject to civil penalties. Various crimes are created related to dispensing marijuana to a person under 21 years of age, enabling marijuana consumption by a person under 21 years of age, and using marijuana in a vehicle while in the presence of a person under 18 years of age.

Act No. 91. An act relating to parole eligibility. (H.150)

Effective Date: July 1, 2018.

- Changes the compassionate release furlough to include more than just terminal illness – now “serious medical condition” can get out on parole or furlough.

Legislative Summary: This act amends the eligibility standard for an inmate’s release on parole or furlough for a medical condition from a “debilitating” medical condition to a “serious” medical condition. This act also requires that in order for an inmate to be eligible for release on parole for a serious medical condition, an inmate must authorize release of his or her personal health information. In addition, the act defines a serious medical condition as a condition that is not caused by noncompliance with a medical treatment plan.

Act No. 92. An act relating to removal of firearms from a person arrested or cited for domestic assault. (H.422)

Effective Date: September 1, 2018.

- Authorizes LEOs to seize a firearm from a person cited or arrested for DV if the firearm is obtained “pursuant to a search warrant or a judicially recognized exception to the warrant requirement.”
- Provides a way to get the gun back if the court does not impose a “no firearms” condition.

Legislative Summary: This act authorizes a law enforcement officer to remove a firearm from a person the officer arrests or cites for committing the crime of domestic assault if: (1) the firearm is obtained pursuant to a search warrant or to a judicially recognized exception to the warrant requirement; and (2) the removal is necessary for the protection of the officer, the alleged victim, the person being arrested or cited, or a family member of the alleged victim or of the person being arrested or cited. If the firearm is removed, the defendant must be arraigned in court on the next business day after the citation is issued except for good cause shown. At the arraignment, the court must return the firearm to the person from whom it was taken unless: (1) the firearm is being or may be used as evidence in a pending criminal or civil proceeding; (2) the court orders relinquishment of the firearm in connection with a relief from abuse or similar order; (3) the person is prohibited by law from possessing a firearm; or (4) the court imposes a condition of release requiring the defendant not to possess a firearm. If the court does order that the firearm be returned, the law enforcement agency in possession of it must make it available to the owner within three business days.

Act No. 97. An act relating to establishing extreme risk protection orders. (S.221)

Effective Date: Upon passage: April 11, 2018

- Permits the family court to grant a whole new type of civil order prohibiting a person from having any “dangerous weapon.”
- Order is valid for 6 months, but can be renewed.
- The requirement to get the order is proof (by C&C) that the person is an extreme risk of causing harm to himself or others by having a weapon. Shown by:
 - Respondent has inflicted or attempted to inflict harm on another;
 - Threats to harm;
 - Actions or inactions that have presented a “danger to persons in his care;” or
 - Threatened or attempted suicide.
- Violation of the order is prosecuted as contempt.
- Also provides for a 1yearr/\$1,000 fine for anyone violating a term of an ERPO.

Legislative Summary: This act establishes a procedure for a State’s Attorney or the Attorney General to obtain a court order, called an Extreme Risk Protection Order (known as an ERPO) that prohibits a person from possessing a firearm or explosive for up to six months if the court finds that the person’s possession of the weapon poses an extreme risk of harm to the person or to other people. The court may issue an ex parte ERPO that lasts for up to 14 days if it finds that the person possessing the weapons poses an imminent and extreme risk of causing harm to himself or herself or another person by having a dangerous weapon. A person who intentionally violates an extreme risk protection order after being served with notice of its contents or a person who files a petition for the order knowing that information in the petition is false or with the intent to harass the weapon owner is subject to one year of imprisonment or a fine of \$1,000.00, or both.

Act No. 101. An act relating to prohibiting the use of drones near correctional facilities. (H.615)

Effective Date: Upon passage: April 17, 2018

- Creates a new civil penalty for flying a drone “over a correctional facility or surrounding property.” \$500 fine to Judicial Bureau.

Legislative Summary: This act prohibits individuals from knowingly flying drones over a correctional facility or surrounding property as long as a reasonable person would know that the property belongs to the correctional facility or the property is readily identifiable by items such as fencing or signs. A person who violates the prohibition will be assessed a civil penalty of not more than \$500.00. This act does not apply to the Department of Corrections, a person operating a drone with written permission from the correctional facility’s supervising officer, or a person operating a drone for commercial purposes while operating under any FAA authorization, rule, or exception. The Department of Buildings and General Services, law enforcement agencies, and a public

safety agency responding to an emergency may fly drones over the facility with prior notice to the facility.

Act No. 105. An act relating to repealing the crimes of vagrancy. (H.563)

Effective Date: July 1, 2018

- Repeals all the vagrancy crimes.

Act No. 107. An act relating to compensation for victims of crime. (H.611)

Effective Date: Upon passage: April 19, 2018

- State is subrogated to the rights of the victim's assignee, heir, or dependent in addition to the victim for purposes of collecting restitution, fines, or whatever.
- The state shall have a lien and the authority to enforce the lien.

Act No. 110. An act relating to electronic court filings for relief from abuse orders. (H.836)

Effective Date: Upon passage: April 25, 2018

- Allows the court to receive ex parte RFA requests by telephone.

Legislative Summary: This act prohibits individuals from knowingly flying drones over a correctional facility or surrounding property as long as a reasonable person would know that the property belong to the facility. This act establishes a procedure for obtaining temporary relief from abuse orders after regular court hours.

This act also requires the Office of Court Administrator to report on the availability after regular court hours of orders against stalking or sexual assault (issued under 12 V.S.A. chapter 178).

Act No. 112. An act relating to animal cruelty. (H.566)

Effective Date: Upon passage: May 1, 2018

Changes the words "cruelly beating" an animal to "cruelly harming" an animal.

[Act No. 135. An act relating to domestic terrorism.](#) (H.25)

Effective Date: Upon passage: May 21, 2018

- Amends the carrying dangerous weapons statute to remove a bunch of “surplus” language and adds a 10 year felony if a weapon is carried to injure “multiple persons” - § 1.
- Creates a new offense – Domestic Terrorism – for “engaging in or taking a substantial step to commit a violation of the criminal laws of the state with the intent to a) cause death or SBI to multiple persons or b) threaten any civilian population with mass destruction, mass killings, or kidnapping.” Substantial step means “conduct that is strongly corroborative of the actor’s intent to complete the commission of the offense” - § 2
- There’s an affirmative defense to Domestic Terrorism if the actor abandoned the effort to commit the crime - § 2.
- Increases the penalty for weapons at school to three years (first offense) and five years (second or subsequent) - § 3.

[Legislative Summary:](#)

- Makes various changes to the statute regarding carrying dangerous weapons, including: removing outdated and unnecessary language and simplifying the prohibition to carrying a dangerous weapon with the intent to injure another; increasing the monetary portion of the penalty from \$200 to \$2,000 to be consistent with other misdemeanor crimes; and adding an enhanced penalty for carrying a dangerous weapon with the intent to injure multiple persons.
- Creates a new crime of domestic terrorism to prohibit committing a crime or taking a substantial step toward committing a crime with the intent to injure or kill multiple persons or threaten any civilian population with destruction, death, or kidnapping.
- Increases the penalties for possessing a firearm or a dangerous or deadly weapon while in a school building, on school property, or on a school bus.

Act No. 142. An act relating to establishing the Commission on Sentencing Disparities and Criminal Code Reclassification. (H.660)

Effective Date: Upon passage: May 21, 2018

- (Re)creates the VT Sentencing Commission to consider whether to make certain opioid offenses civil rather than criminal and how to maximize treatment for offenders - § 2.
- Sentencing Commission shall create a report that classifies all criminal offenses into sentencing categories and propose legislation to make it official - § 3.
- Also, the Commission will consider and report on: - § 3
 - Whether to propose rules of statutory interpretation specifically for criminal statutes.
 - The consistent use of mens rea terminology in all criminal statutes.
 - Writing a definitions statute that would apply to all criminal statutes.
 - Whether to decriminalize all fine-only offenses to send them to the Judicial Bureau.
 - Whether to redefine attempt – specifically whether we should adopt the MPC attempt statute.

Legislative Summary: This act directs the Vermont Sentencing Commission to review Vermont criminal sentencing law and practice to determine whether existing statutory penalties are appropriate, to place each existing criminal offense in a category within a standardized penalty classification system, and to develop responses to the significant impacts that increased opioid addiction has had on the criminal justice system. The act appropriates \$50,000.00 to the Sentencing Commission for these purposes, and repeals the Commission on July 1, 2021.

Act No. 146. An act relating to creation of the Restorative Justice Study Committee. (H.718)

Effective Date: Upon passage: May 21, 2018

- Creates a study committee (including a representative of the ODG) to study “whether there is a role for victim-centered restorative justice principles and processes in domestic and sexual violence and stalking cases.”
- The Committee will, among other things:
 - Decide whether restorative justice can work in DV/sex cases
 - “Review” the “power imbalances” between the people who would take part in DV restorative processes

(Legislative Summary currently not available.)

Act No. 147. An act relating to admissibility of a child's hearsay statements in a proceeding before the Human Services Board. (H.727)

Effective Date: July 1, 2018

- At the HSB, all the hearsay rules will not apply to statements made by a child 12 or under alleged to have been abused or neglected. Rather, the evidence will be admissible if the time, content, and circumstances of the statements provide substantial indicia of trustworthiness - § 1.
- The hearsay rules will not apply to statements made by a child between the ages of 13 and 16 if the hearing officer determines that requiring the child to testify will present a "substantial risk of trauma to the child." Evidence of risk of trauma does not need to be offered by an expert, but can be offered by any adult "with an ongoing significant relationship with the child." Again, hearsay will be admitted if the time, content, and circumstances of the statements provide substantial indicia of trustworthiness - § 1.

Legislative Summary: This act creates an exemption to the hearsay rule with respect to statements made by a child 12 years of age or under who is alleged to have been abused or neglected and provides that such a child shall not be required to testify or give evidence at any hearing before the Human Services Board regarding a substantiation proceeding. Evidence shall be admissible if the time, content, and circumstances of the statements provide substantial indicia of trustworthiness. The exemption applies to statements made by a child who is at least 13 years of age and under 16 years of age who is alleged to have been abused or neglected in either of the following circumstances: 1) The hearing officer determines, based on a preponderance of the evidence, that requiring the child to testify will present a substantial risk of trauma to the child. 2) The hearing officer determines that the child is physically unavailable to testify or the Department has made diligent efforts to locate the child and was unsuccessful.

Act No. 158. An act relating to the Transportation Program and miscellaneous changes to transportation-related law. (H.914)

Effective Date: (Multiple Effective Dates – see Act)

- Extends the Furnishing Alcohol to Minors Causing Death statute to apply to death caused by a snowmobile, all-terrain vehicle, or boat and that the death may occur on public land, public waters, VAST and VASA trails, in addition to public highways - § 16.
- New civil offense for unsafe passing of a stationary "sanitation, maintenance, utility, or delivery vehicle." \$200 fine - § 40.
- DMV shall adopt new inspection rules that limit inspection failures to cases where "the condition of the part or system poses or may pose a danger to the operator or to other highway users" - § 41.

Legislative Summary (see summary for more information, much does not apply to public defense).

Act No. 160. An act relating to regulating notaries public. (H.526)

Effective Date: (Multiple Effective Dates – see Act)

- Adopts the Uniform Law on Notarial Acts
- Creates a lot of changes to how notaries public can conduct themselves.
- Public Defenders and their staff are excused from ALL requirements (including fees) except for the requirement to apply for a commission.

Legislative Summary:

This act overhauls the State’s regulation of notaries public. Prior to this act, the assistant judges of each county were permitted to “appoint as many notaries public for the county as the public good requires,” with the appointments running until 10 days after the expiration of the assistant judges’ four-year term of office. Qualifications for a notary public commission were based on a notary applicant’s being at least 18 years of age and either being a resident of the assistant judges’ county or being a resident of an adjoining state and being employed in Vermont. The law empowered commissioned notaries to take acknowledgements, administer oaths and affirmations, and certify copies of documents, but did not provide professional standards for notaries to perform those acts nor provide the assistant judges with regulatory authority over notaries, such as the authority to revoke a commission previously granted.

This act revises Vermont’s notary laws and is based on the Uniform Law Commission’s Revised Uniform Law on Notarial Acts. It moves regulation of the profession to the Secretary of State’s Office of Professional Regulation (OPR) as an advisor profession with a two-year renewal cycle. In addition to age and Vermont residence or employment requirements, the act requires notary public applicants to meet professional conduct standards and to pass a basic examination for an initial commission and complete no more than two hours of continuing education for commission renewal. The act further provides standards for notarial acts, including standards for taking acknowledgements and verifications, attesting signatures, and identifying individuals; requires a notarial act to be evidenced by a certificate; and defines notarial unprofessional conduct, which could result in disciplinary action.

The act provides exemptions for some of its requirements: Specified Judiciary- and public safety-related employees acting within the scope of their official duties are only required to apply for a commission and pay a fee (unless also exempted from the fee); attorneys are not required to take the initial examination or continuing education; and specified public officers are exempted from paying the commission fee. Moreover, the act requires certain State officers to provide a one-time report on whether certain notarial acts should instead be regulated under a law similar to the Uniform Unsworn Declarations Act.

While the main provisions take effect on July 1, 2019, the act requires OPR to take over the assistant judges’ application duties beginning on December 1, 2018 and delays the examination and continuing education requirements until February 1, 2021.

Act No. 162. An act relating to parenting proceedings. (H.562)

Effective Date: July 1, 2018

Legislative Summary: This act repeals existing parentage laws in Title 15 and enacts a new Title 15C that creates a comprehensive, statutory framework for the establishment of parentage, covering voluntary acknowledgement of parentage, presumed parentage, de facto parentage, genetic parentage, parentage by assisted reproduction, and parentage by gestational carrier agreement.

Act No. 164. An act relating to bail reform. (H.728)

Effective Date: July 1, 2018

- Presumption of no bail for any misdemeanor offense that is eligible for expungement under 13 V.S.A. § 7601(4)(A). If bail is imposed, it is for a maximum of \$200 - § 1.
- All references to “ensure appearance” in the bail statutes are replaced with “mitigate the risk of flight from prosecution” which is defined as “any action or behavior undertaken by a person charged with a criminal offense to avoid court proceedings” - § 3, 5. *Already substantive law.*
- Requires the court to “consider the defendant’s financial means” before imposing any bail - § 3. *Already law.*
- Permits the state to request a bail review following a material change in circumstances - § 3.
- A committee consisting only of people who are responsible for locking up too many black people will report to Justice Oversight on whether we lock up too many black people - § 6. [Note: The ODG is not on this committee.]
- Anyone held without bail under 7553 or 7553a will not be eligible for home detention - § 7.
- Justice Oversight will look at how to expand and improve the home detention program - § 8.

Legislative Summary: This act makes various changes to the bail statutes, including:

- Replaces the language “ensure the appearance of the person” to “mitigate the risk of flight from prosecution” to reflect more accurately the legislative intent behind bail.
- Provides that in general no bond shall be imposed upon the temporary release of a person charged with an expungement-eligible misdemeanor, though judges retain the discretion to set bail for these individuals at a maximum of \$200.00.
- Requires the court to consider the defendant’s financial means prior to setting bail.
- Removes the court’s discretion to place a restriction on defendant’s place of abode as a condition to ensure appearance.
- Creates separate lists of considerations for judges when setting conditions to mitigate the risk of flight and conditions to protect the public.

- Provides that the court has the authority to revoke bail if a defendant repeatedly violates the conditions of his or her release only if those violations impede the prosecution of the accused.
- Provides that a defendant held without bail for an offense punishable by life imprisonment when evidence of guilt is great or for a violent felony when the evidence of guilt is great shall not be eligible for release to the Home Detention Program.

The act also:

- Tasks the Joint Legislative Justice Oversight Committee (JOC) with evaluating the Home Detention Program and recommending how to improve and expand it prior to the next legislative session.
- Tasks the Commissioner of Corrections, the Commissioner of Public Safety, the Attorney General, the Executive Director of the Department of State's Attorneys and Sheriffs, and the Director of the Vermont State Police to examine data regarding people of color who are incarcerated in Vermont and report to the JOC during the 2018 legislative interim.

Act No. 170. An act relating to miscellaneous fish and wildlife subjects. (H.636)

Effective Date: (Multiple Effective Dates – see Act)

- Greatly expands the list of F&W offenses that can result in the forfeiture of “firearms, jacks, lights, motor vehicles, and devices” - § 6.
- Creates a fine only offense for conducting or participating in a coyote-hunting contest - § 14.
- DFW must review all criminal F&W offenses and present to the relevant committees about whether they should really be crimes - § 16.

Legislative Summary: This act amends several fish and wildlife laws. The Commissioner of Fish and Wildlife (Commissioner) is authorized to designate information as confidential if its release could harm a species or its habitat. The Agency of Natural Resources may convey, exchange, sell, or lease lands owned by the Department of Fish and Wildlife to resolve trespass or boundary issues. A license agent shall retain a \$1.50 filing for each lottery application processed.

A federal waterfowl stamp and a State waterfowl stamp are required to hunt migratory waterfowl.

The act clarifies what constitutes a “fish and wildlife violation.” Muzzle-loading shotguns are added to the list of weapons that may not be fired from a motor vehicle, and a person who possesses a crossbow, muzzle-loading rifle, or muzzle-loading shotgun in a motor vehicle is required to show the weapon to a law enforcement officer if asked.

A person shall not transport into, transport within, transport through, or possess in the State a wild bird or wild animal without the Commissioner’s authorization. Similarly, a person is prohibited from: bringing into the State wildlife illegally taken out of State; placing a Vermont wildlife tag on wildlife taken out of State; or reporting in Vermont big game taken out of State.

The act requires a person who incidentally traps a dog or cat to notify the Commissioner. The Commissioner shall keep records of all trapped dogs and cats. A person who traps for compensation is required by the act to have a trapping license.

A person shall not hold or participate in a coyote hunting competition. A person shall be fined no more than \$1,000 nor less than \$400 for holding or participating in a coyote hunting competition. A person shall receive 10 points on their hunting license for participating in a coyote hunting competition and 20 points for holding a coyote hunting competition. The Commissioner shall review criminal and civil charges for fish and wildlife violations.

Act No. 176. An act relating to the provision of medication-assisted treatment for inmates. (S.166)

Effective Date: July 1, 2018

- Sec. 2: “Medication-assisted treatment” means the use of USDA-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.
- Sec. 3 adds subsection (b)(2): Within 24 hours after admission to a correctional facility, each inmate shall be screens for substance use disorders as part of the initial and ongoing substance use screening and assessment process. This process includes screening and assessment for opioid use disorders.

Legislative Summary:

This act authorizes State correctional facilities to continue medication-assisted treatment to those inmates who enter a facility while undergoing medication-assisted treatment and for whom the continuation of medication-assisted treatment is deemed medically necessary. It further authorizes State correctional facilities to facilitate the commencement of medication-assisted treatment using buprenorphine among inmates for whom medication-assisted treatment is medically necessary and who were not receiving medication-assisted treatment on their entry into a facility. An inmate receiving buprenorphine may transfer to methadone if it is deemed medically necessary by a provider authorized to prescribe methadone and the inmate elects to commence methadone. An inmate may continue to receive medication-assisted treatment as long as medically necessary. Discontinuance of medication-assisted treatment, or any medication, by a licensed practitioner requires the practitioner to enter the reason for discontinuation in an inmate’s medical record. An inmate must receive a specific explanation of the decision to discontinue a medication along with notice of the right to have his or her community-based prescriber notified of the decision.

The act authorizes the Departments of Corrections and of Health to enter into a memorandum of understanding with opioid treatment programs throughout the State in which a State correctional facility is located for the purpose of providing medication-assisted treatment to those inmates for whom a licensed practitioner has determined such treatment is medically necessary.

By January 15, 2022, the Department of Corrections must present to the House Committee on Corrections and Institutions and to the Senate Committee on Institutions an evaluation of the effectiveness of the medication-assisted treatment program facilitated by correctional facilities.

Act No. 177. An act relating to providing representation to needy persons concerning immigration matters. (S.237)

Effective Date: July 1, 2018

- Codifies requirement that defense attorneys may provide representation that includes immigration matters.
- Strikes the word “sovereign” from the IAC claim statute – so contractors “have the benefit of immunity to the same extent as an attorney employed by the Defender General.”

Legislative Summary:

This act clarifies that the Defender General and public defenders may provide representation to clients in federal courts with respect to immigration matters and that the Defender General has the benefit of immunity, as opposed to sovereign immunity.

Act No. 178. An act relating to sealing criminal history records when there is no conviction. (S.173)

Effective Date: July 1, 2018

- Makes it easier to get expungement (7 years of no convictions, rather than no convictions since the offense to be expunged).
- All charges sealed after 12 months if no PC at arraignment OR if the prosecutor dismisses at arraignment.
- Records expunged within 45 days of acquittal, dismissal with prejudice.
- Sealed records should be expunged after the statute of limitations runs.
- Directs the SAs (with consultation with defense counsel) to “consider” expanding the list of expungable offenses and to “consider” automatic expungement and report to Justice Oversight.

Legislative Summary:

- Provides that a person can petition for expungement if he or she committed a subsequent felony at least seven years prior to the expungement petition.
- Substantially reconfigures the statute governing sealing and expungement when there is no conviction to provide for automatic expungements and sealing under certain circumstances.
- Requires the court to keep a special index of expunged cases and removes the authority of the court to allow inspection of the index in the interest of justice.
- Creates a study group to consider expanding the list of qualifying crimes eligible for expungement; the implications of such an expansion on public health, law enforcement efforts, and economic development; and the viability of automating the sealing and expungement process.

Act No. 192. An act relating to offender and inmate records. (S.179)

Effective Date: Upon passage: May 30, 2018

- Rewrites the access to records statute to give DOC greater authority to deem certain records exempt from disclosure.
- Inmates are entitled to disclosable records free of charge, except that DOC is not required to provide a free copy if the inmate already obtained the records and the records were lost or destroyed by the inmate – then DOC can charge a penny a page.
- Requires a lot of rulemaking.

Legislative Summary: This act clarifies and amends the law that governs access to offender and inmate records; directs the Commissioner of Corrections to prefile rules that define and govern access to offender and inmate records with the Interagency Committee on Administrative Rules on or before September 15, 2018; and directs the Commissioner to update the Joint Legislative Justice Oversight Committee on the status of its efforts to adopt the rules at the Oversight Committee’s first meeting on or after September 15, 2018.

Act No. 200. An act relating to systemic improvements of the mental health system.
(S.203)

Effective Date: July 1, 2018.

- Creates a committee to “examine the strengths and weaknesses of VT’s orders of nonhospitalization.” The Office of the Defender General is on the committee.
- Allows UVM to plan to expand inpatient MH bed capacity at Center Vermont Medical Center.
- Orders DMH to provide information on cost, bed availability, ER stays, transport, etc.

Legislative Summary:

This act makes numerous miscellaneous changes to the State’s mental health laws, including several provisions related to mental health parity and evolving plans to increase inpatient capacity. It expresses legislative intent to increase the number of inpatient psychiatric beds in a manner that ensures clinical best practice, support the development of UVM Health Network’s proposal to expand capacity at the Central Vermont Medical Center campus, and replace the temporary secure residential recovery facility with a permanent facility. The act requires the Secretary of Human Services to provide regular updates to the Health Reform Oversight Committee pertaining to the status of proposed renovations at the Brattleboro Retreat and the UVM Health Network’s proposal.

The act waives the certificate of need requirements for the implementation of renovations at the Brattleboro Retreat as authorized in the fiscal year 2019 capital budget adjustment bill to ensure the renovations will not be considered a “new health care project.” Similarly, it waives the conceptual development phase certificate of need

for the UVM Health Network's proposal to expand capacity at the Central Vermont Medical Center campus if certain criteria are met.

The act establishes an Order of Non-Hospitalization Study Committee for the purposes of improving patient care and possibly proposing a pilot project to redress any existing weaknesses and build upon existing strengths related to this judicial proceeding.

The act specifies that if the Department of Disabilities, Aging, and Independent Living were to amend its secure residential recovery facility rules to allow the use of emergency involuntary procedures, the rules adopted must be identical to the rules adopted by the Department of Mental Health that govern the use of emergency involuntary procedures in inpatient psychiatric units.

By January 15, 2019, the act requires that the Secretary of Human Services submit a report to the General Assembly on the secure transport of patients by sheriffs' departments, particularly with regard to contract provisions required by 2017 Acts and Resolves No. 85, Sec. E.314 (transporting patients). By the same date, the Secretary shall present a proposal, in collaboration with the Green Mountain Care Board and designated and specialized service agencies, for providing the designated and specialized service agency budgets to the Board for informational purposes for its work on health care system costs. The act requires the Commissioner of Mental Health to collect data from hospitals in the State that have either an inpatient psychiatric unit or emergency department receiving patients with psychiatric health needs and to report those findings to the General Assembly annually between 2019 and 2021. The act amends the reporting requirements of 2017 Acts and Resolves No. 82, Sec. 3(c). The act requires the Secretary to submit a series of reports pertaining to the State's response to the Centers for Medicare and Medicaid Services' requirement to begin reducing federal Medicaid spending at "institutions for mental disease."

The remaining provisions of the act require the inclusion of mental health parity at various stages of decision making, including as part of the criteria for accountable care organizations, as part of each hospital's strategic planning process, and as part of the certificate of need application process.

Act No. 201. An act relating to adjudicating all teenagers in the Family Division, except those charged with a serious violent felony. (S.234)

Effective Date: (Multiple Effective Dates – see Act)

- Expands expungement for anyone who committed a qualifying offense between the ages of 18 and 21. *Requires* expungement within 30 days after the person completes the sentence except for good cause. No expungement if there is still restitution to pay, or if it would require the expungement of a record with both qualifying and nonqualifying offenses - § 2.
- Closes the jurisdictional hole created by the last juvenile jurisdiction bill – it had stripped all courts of jurisdiction over anyone who was charged with an offense that had to originate in juvenile court but who turned 18 before the offense was adjudicated - § 5.
- All juveniles charged with a delinquency are offered a YASI. Any juvenile who scores

low to moderate risk to reoffend must be referred to diversion unless the SA states on the record why diversion would not “serve the ends of justice.” - § 6.

- In a YO case, permits the criminal sentencing judge, after the juvenile court has revoked probation, to send the case back to juvenile court if it “serves the interest of justice.” § 10. *Nobody knows what this means.*
- A committee, that includes the Defender General, will report on the resources needed to expand juvenile jurisdiction to age 20 - § 12.
- Raises the age of juvenile jurisdiction to 19 in 2020 and to 20 in 2022 - § 13.
- A juvenile who is found delinquent for any of the “proof of financial responsibility” offenses can be required to provide proof of financial responsibility - § 14.

Legislative Summary:

- Creates a new section of law, providing for automatic expungement of criminal history records of qualifying crimes for people who were 18-21 years old at the time they committed the offense, as long as certain criteria are met.
- Requires courts to keep a special index of expunged cases and limits inspection of an expunged record to the person who is the subject of the expunged record.
- Charges the Department for Children and Families (DCF) as the designated agency for supervising preparation and administration of the State plan for the Juvenile Justice and Delinquency Prevention Act.
- Requires the State’s Attorney to consider the results of the risk and needs screening in determining whether to file a charge in a juvenile delinquency or youthful offender proceeding, with the presumption that low-to-moderate risk offenders will be referred to diversion.
- Provides that a person placed at Woodside Juvenile Rehabilitation Center can continue to receive treatment past his or her 18th birthday if he or she meets certain criteria.
- Requires DCF and others to report to the General Assembly on the plan for expanding juvenile delinquency and youthful offender status to encompass 18- and 19-year-olds, and requires the Joint Legislative Justice Oversight and Child Protection Oversight Committees to issue findings as to whether key milestones have been met and whether appropriate funding exists for the expansion.
- Expands jurisdiction of the Family Division to 18- and 19-year-olds over the next four years.
- Appropriates funding to DCF for the purpose of the expansion of services to 18- and 19-year-olds.

Act No. 206. An act relating to miscellaneous changes to laws related to motor vehicles. (S.272)

Effective Date: (Multiple Effective Dates – see Act)

- Makes changes to the Total Abstinence Restoration Program - § 8

Legislative Summary:

- Special Plates and Placards for Persons with Disabilities. Authorizes the Commissioner of DMV to issue a set of special registration plates to the parent or guardian of a person with a permanent disability.
- Eliminating Requirements to Return License Plates. Eliminates the requirement that a motor vehicle registrant return license plates to the Commissioner of DMV when the registration is cancelled following total loss of the vehicle and when the registration is cancelled because the registration will not be used.
- Veterans; Fee Exemptions. Updates existing statutes that grant certain fee and tax exemptions to veterans who receive financial assistance from the U.S. Department of Veterans Affairs to acquire a motor vehicle in order to reflect the current structure of the federal program that provides such financial assistance.
- Total Abstinence Program. Provides that a person who submits an application for reinstatement of his or license under the Total Abstinence Program must include in the application authorization to undergo an examination if it is approved as a preliminary screening test under the State’s DUI law, and makes other miscellaneous changes to the language that governs the Program.
- Means of Transmitting Fuel Tax Payments. Phases in requirements that diesel tax and motor fuel payments be transmitted to the Department of Motor Vehicles by means of an electronic funds transfer.
- Motor Vehicle Purchase and Use Tax. Adds siblings to the class of family members to whom a donor may transfer a motor vehicle without triggering a motor vehicle purchase and use tax obligation, and adds clarifying language to codify existing practice governing transfers following death and transfers that arise by operation of the law governing intestacy.
- New Motor Vehicle Arbitration. Amends the definition of “manufacturer” in the State’s Lemon Law to specify that, with one exception, in the case of the portion of recreation vehicles (RVs) subject to the Lemon Law, the manufacturer is the final stage assembler of the completed RV, and provides that with certain exceptions, a provision or agreement that purports to waive, limit, or disclaim a consumer’s Lemon Law rights—or that purports to require a consumer not to disclose the terms of the provision or agreement—is void as contrary to public policy.
- Three-wheeled Motorcycles. Requires the Commissioner of DMV to offer operators of three-wheeled motorcycles the opportunity to obtain a motorcycle endorsement and a motorcycle learner’s permit that authorize the operation of three-wheeled motorcycles only, and requires the Commissioner to maintain a list of approved in-state and out-of-state motorcycle rider training courses, successful completion of which will satisfy the skill test requirement for obtaining a motorcycle endorsement.
- Dealer Records of Sales. Repeals a requirement that motor vehicle and motorboat dealers record on DMV’s “Dealer’s Vehicle Record” form the “cash price” of a vehicle or motorboat that is sold or transferred.

- Motor Vehicle Inspections. Narrows the scope of DMV's authority with regard to the safety component of motor vehicle inspections; directs the Commissioner of DMV to file with the Secretary of State a proposed amended Inspection Manual rule that is consistent with the narrowed scope of rulemaking authority; directs the Commissioner to update the content of inspections conducted through the Automated Vehicle Inspection Program as soon as practicable to be consistent with the narrowed scope of safety inspections; gives the Commissioner authority to establish criteria to allow vehicles that would otherwise fail inspection as a result of the emissions component of the inspection to pass inspection; directs the Commission, in consultation with the Commissioner of Environmental Conservation, to develop a program of waivers related to the emissions component of the State's inspection program that is consistent with the Clean Air Act; and directs the Commissioners of DMV and of Environmental Conservation to send a written update to the Joint Transportation Oversight Committee on November 30, 2018 with regard to several inspection program-related issues.