

1 S.6

2 Introduced by Senator Sears

3 Referred to Committee on

4 Date:

5 Subject: Court procedure; criminal procedure; technical corrections

6 Statement of purpose of bill as introduced: This bill proposes to make several
7 technical corrections related to civil and criminal procedure statutes.

8 An act relating to technical corrections to civil and criminal procedure
9 statutes

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

11 Sec. 1. 13 V.S.A. § 1501 is amended to read:

12 § 1501. ESCAPE AND ATTEMPTS TO ESCAPE

13 * * *

14 (b)(1) A person ~~who~~ shall not, while in lawful custody:

15 ~~(1) fails~~ (A) fail to return from work release to the correctional facility
16 at the specified time, or visits other than the specified place, as required by the
17 order issued in accordance with 28 V.S.A. § 753;

18 ~~(2) fails~~ (B) fail to return from furlough to the correctional facility at
19 the specified time, or visits other than the specified place, as required by the
20 order issued in accordance with 28 V.S.A. § 808;

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

* * *

Sec. 2. 13 V.S.A. § 5321 is amended to read:

§ 5321. APPEARANCE BY VICTIM

* * *

(c) In accordance with ~~court~~ Court rules, at the sentencing hearing, the ~~court~~ Court shall ask if the victim is present and, if so, whether the victim would like to be heard regarding sentencing. ~~in~~ In imposing sentence, the ~~court~~ Court shall consider any views offered at the hearing by the victim. ~~if~~ If the victim is not present, the ~~court~~ Court shall ask whether the victim has

1 expressed, either orally or in writing, views regarding sentencing and shall take
2 those views into consideration in imposing sentence.

3 (d) At or before the sentencing hearing, the prosecutor's office shall
4 instruct the victim of a listed crime, in all cases where the ~~court~~ Court imposes
5 a sentence which includes a period of incarceration, that a sentence of
6 incarceration is to the custody of the ~~commissioner~~ Commissioner of
7 ~~corrections~~ Corrections and that the ~~commissioner~~ Commissioner of
8 ~~corrections~~ Corrections has the authority to affect the actual time the defendant
9 shall serve in incarceration through good time credit, furlough, work-release,
10 and other early release programs. ~~in~~ In addition, the prosecutor's office shall
11 explain the significance of a minimum and maximum sentence to the victim
12 and shall also explain the function of parole and how it may affect the actual
13 amount of time the defendant may be incarcerated.

14 * * *

15 Sec. 3. 13 V.S.A. § 5574 is amended to read:

16 § 5574. BURDEN OF PROOF; JUDGMENT; DAMAGES

17 (a) A claimant shall be entitled to judgment in an action under this
18 subchapter if the claimant establishes each of the following by clear and
19 convincing evidence:

20 * * *

(B) ~~The~~ the complainant was pardoned for the crime for which he or she was sentenced.

Sec. 4. 18 V.S.A. § 4230 is amended to read:

(a) Possession and cultivation.

* * *

1 (b) Selling or dispensing.

2 (1) A person knowingly and unlawfully selling one ounce or less of
3 marijuana or five grams or less of hashish shall be imprisoned not more than
4 two years or fined not more than \$10,000.00, or both.

5 (2) A person knowingly and unlawfully selling or dispensing ~~one half~~
6 more than one ounce or more of marijuana or ~~2.5~~ more than five grams or
7 ~~more~~ of hashish shall be imprisoned not more than five years or fined not more
8 than \$100,000.00, or both.

9 (3) A person knowingly and unlawfully selling or dispensing one pound
10 or more of marijuana or 2.8 ounces of hashish shall be imprisoned not more
11 than 15 years or fined not more than \$500,000.00, or both.

12 * * *

13 Sec. 5. 33 V.S.A. § 5308(a)(4) is amended to read:

14 (4) The custodial parent, guardian, or ~~guardian~~ custodian has abandoned
15 the child.

16 Sec. 6. EFFECTIVE DATE

17 This act shall take effect on passage.