

1 TO THE HOUSE OF REPRESENTATIVES:

2 The House Committee on Judiciary to which was referred Senate Bill No. 6
3 entitled “An act relating to technical corrections to civil and criminal procedure
4 statutes” respectfully reports that it has considered the same and recommends
5 that the House propose to the Senate that the bill be amended by striking out all
6 after the enacting clause and inserting in lieu thereof the following:

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

8 § 1501. ESCAPE AND ATTEMPTS TO ESCAPE

9 * * *

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

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

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

17 ~~(3) escapes or attempts~~ (C) escape or attempt to escape while on release
18 from a correctional facility to do work in the service of such facility or of the
19 Department of Corrections in accordance with 28 V.S.A. § 758; or

20 ~~(4) escapes or attempts~~ (D) escape or attempt to escape from the

21 Vermont ~~State Hospital, or its successor in interest~~ Psychiatric Care Hospital

1 or a participating hospital, when confined by court order pursuant to chapter
2 157 of this title, or when transferred there pursuant to 28 V.S.A. § 703 and
3 while still serving a sentence, ~~shall be imprisoned for not more than five years~~
4 ~~or fined not more than \$1,000.00, or both.~~

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

7 * * *

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

9 § 5321. APPEARANCE BY VICTIM

10 * * *

11 (c) In accordance with ~~court~~ Court rules, at the sentencing hearing, the
12 ~~court~~ Court shall ask if the victim is present and, if so, whether the victim
13 would like to be heard regarding sentencing. ~~in~~ In imposing sentence, the ~~court~~
14 Court shall consider any views offered at the hearing by the victim. ~~if~~ If the
15 victim is not present, the ~~court~~ Court shall ask whether the victim has
16 expressed, either orally or in writing, views regarding sentencing and shall take
17 those views into consideration in imposing sentence.

18 (d) At or before the sentencing hearing, the prosecutor's office shall
19 instruct the victim of a listed crime, in all cases where the ~~court~~ Court imposes
20 a sentence which includes a period of incarceration, that a sentence of
21 incarceration is to the custody of the ~~commissioner~~ Commissioner of

1 ~~corrections~~ Corrections and that the ~~commissioner~~ Commissioner of
2 ~~corrections~~ Corrections has the authority to affect the actual time the defendant
3 shall serve in incarceration through good time credit, furlough, work-release,
4 and other early release programs. ~~It~~ In addition, the prosecutor's office shall
5 explain the significance of a minimum and maximum sentence to the victim
6 and shall also explain the function of parole and how it may affect the actual
7 amount of time the defendant may be incarcerated.

8 * * *

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

10 § 5574. BURDEN OF PROOF; JUDGMENT; DAMAGES

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

14 * * *

15 (2)(A) ~~The~~ the complainant's conviction was reversed or vacated, the
16 complainant's information or indictment was dismissed, or the complainant
17 was acquitted after a second or subsequent trial; or

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

20 * * *

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

2 § 4230. MARIJUANA

3 (a) Possession and cultivation.

4 (1)(A) No person shall knowingly and unlawfully possess more than one
5 ounce of marijuana or more than five grams of hashish or cultivate marijuana.

6 For a first offense under this subdivision (A), a person shall be provided the
7 opportunity to participate in the Court Diversion Program unless the prosecutor
8 states on the record why a referral to the Court Diversion Program would not
9 serve the ends of justice. A person convicted of a first offense under this
10 subdivision shall be imprisoned not more than six months or fined not more
11 than \$500.00, or both.

12 * * *

13 (b) Selling or dispensing.

14 (1) A person knowingly and unlawfully selling marijuana or hashish
15 shall be imprisoned not more than two years or fined not more than
16 \$10,000.00, or both.

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

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§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS
OF AGE; FIRST OR SECOND OFFENSE; CIVIL VIOLATION

(a) Offense. Except as otherwise provided in section 4230c of this title, a person under 21 years of age who knowingly and unlawfully possesses or dispenses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program.

A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person’s operator’s license and privilege to operate a motor vehicle for a period of 90 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person’s operator’s license and privilege to operate a motor vehicle for a period of 180 days, for a second offense.

* * *

§ 4230c. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS
OF AGE; THIRD OR SUBSEQUENT OFFENSE; CRIME

No person shall knowingly and unlawfully possess or dispense marijuana.

A person under 21 years of age who knowingly and unlawfully possesses or dispenses one ounce or less of marijuana or five grams or less of hashish

1 commits a crime if the person has been adjudicated at least twice previously in
2 violation of section 4230b of this title and shall be imprisoned not more than
3 30 days or fined not more than \$600.00, or both.

4 Sec. 6. 33 V.S.A. § 5308(a)(4) is amended to read:

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

7 Sec. 7. 2014 Acts and Resolves No. 126, Sec. 7 is amended to read:

8 Sec. 7. EFFECTIVE DATE

9 This act shall take effect on July 1, 2014 and shall apply to restitution orders
10 issued after that date; provided, however, that notwithstanding 1 V.S.A. § 214,
11 Secs. 1, 3, 4, 5, and 6 shall also apply retroactively to restitution orders issued
12 on or before July 1, 2014.

13 Sec. 8. EFFECTIVE DATE

14 This act shall take effect on passage.

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18 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE