

1 S.222

2 Introduced by Senator Sears

3 Referred to Committee on

4 Date:

5 Subject: Court procedure; criminal procedure; technical amendments

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

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

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

11 Sec. 1. 10 V.S.A. § 8007(c) is amended to read:

12 (c) An assurance of discontinuance shall be in writing and signed by the
13 respondent and shall specify the statute or regulation alleged to have been
14 violated. The assurance of discontinuance shall be simultaneously filed with
15 the Attorney General and the Environmental Division. The Secretary or the
16 Natural Resources Board shall post a final draft assurance of discontinuance to
17 its website and shall provide a final draft assurance of discontinuance to a
18 person upon request. When signed by the Environmental Division, the
19 assurance shall become a judicial order. Upon motion by the Attorney General
20 made within ~~40~~ 14 days of the date the assurance is signed by the Division and

1 upon a finding that the order is insufficient to carry out the purposes of this
2 chapter, the Division shall vacate the order.

3 Sec. 2. 12 V.S.A. § 1 is amended to read:

4 § 1. RULES OF PLEADING, PRACTICE, AND PROCEDURE; FORMS

5 The Supreme Court is empowered to prescribe and amend from time to time
6 general rules with respect to pleadings, practice, evidence, procedure, and
7 forms for all actions and proceedings in all courts of this State. The rules thus
8 prescribed or amended shall not abridge, enlarge, or modify any substantive
9 rights of any person provided by law. The rules when initially prescribed or
10 any amendments thereto, including any repeal, modification, or addition, shall
11 take effect on the date provided by the Supreme Court in its order of
12 promulgation, unless objected to by the ~~Joint~~ Legislative Committee on
13 Judicial Rules as provided by this chapter. If objection is made by the ~~Joint~~
14 Legislative Committee on Judicial Rules, the initially prescribed rules in
15 question shall not take effect until they have been reported to the General
16 Assembly by the Chief Justice of the Supreme Court at any regular, adjourned,
17 or special session thereof, and until after the expiration of 45 legislative days
18 of that session, including the date of the filing of the report. The General
19 Assembly may repeal, revise, or modify any rule or amendment thereto, and its
20 action shall not be abridged, enlarged, or modified by subsequent rule.

1 (d) ~~A person who does not so appear in response to a summons for a traffic~~
2 ~~offense as defined in 23 V.S.A. § 2201 shall be fined not more than \$100.00.~~

3 [Repealed.]

4 Sec. 5. 12 V.S.A. § 3125 is amended to read:

5 § 3125. PAYMENT OF TRUSTEE'S CLAIM BY CREDITOR

6 When it appears that personal property in the hands of a person summoned
7 as a trustee is mortgaged, pledged, or liable for the payment of a debt due to
8 him or her, the court may allow the attaching creditor to pay or tender the
9 amount due to the trustee, and he or she shall thereupon deliver such property,
10 as ~~hereinbefore~~ provided in this subchapter, to the officer holding the
11 execution.

12 Sec. 6. 12 V.S.A. § 3292 is amended to read:

13 § 3292. RECORDING BY TOWN OR SUPERIOR CLERK

14 When a copy of a writ of attachment, on which real estate is attached, is
15 lodged in the office of a town or Superior clerk, such clerk shall enter in a book
16 to be kept for that purpose the names of the parties, the date of the writ, the
17 time when and the court to which the same is returnable, the nature of the
18 action, the sum demanded, and the officer's return thereon.

1 Sec. 7. 12 V.S.A. § 3351 is amended to read:

2 § 3351. ATTACHMENT, TAKING IN EXECUTION, AND SALE

3 Personal property not exempt from attachment, subject to a mortgage,
4 pledge, or lien, may be attached, taken in execution, and sold as the property of
5 the mortgagor, pledgor, or general owner, in the same manner as other personal
6 property, except as ~~hereinafter~~ otherwise provided in this subchapter.

7 Sec. 8. 18 V.S.A. § 4245 is amended to read:

8 § 4245. REMISSION OR MITIGATION OF FORFEITURE

9 (a) On petition filed within 90 days of completion of a forfeiture
10 proceeding, ~~the claims commission established in 32 V.S.A. § 931~~ a court that
11 issued a forfeiture order pursuant to section 4244 of this title may order that the
12 forfeiture be remitted or mitigated. The petition shall be sworn, and shall
13 include all information necessary for its resolution or shall describe where such
14 information can be obtained. Upon receiving a petition, the ~~claims~~
15 ~~commission~~ court shall investigate and may conduct a hearing if in its
16 judgment it would be helpful to resolution of the petition. The ~~claims~~
17 ~~commission~~ court shall either grant or deny the petition within 90 days.

18 (b) The ~~claims commission~~ court may remit or mitigate a forfeiture upon
19 finding that relief should be granted to avoid extreme hardship or upon finding
20 that the petitioner has a valid, good faith interest in the property which is not
21 held through a straw purchase, trust, or otherwise for the benefit of another and

1 that the petitioner did not at any time have knowledge or reason to believe that
2 the property was being or would be used in violation of the law.

3 Sec. 9. 18 V.S.A. § 4474g(b) is amended to read:

4 (b) Prior to acting on an application for a Registry identification card, the
5 Department shall obtain with respect to the applicant a Vermont criminal
6 history record, an out-of-state criminal history record, and a criminal history
7 record from the Federal Bureau of Investigation. Each applicant shall consent
8 to the release of criminal history records to the Department on forms
9 developed by the Vermont Crime Information Center. A fingerprint-
10 supported, out-of-state criminal history record and a criminal history record
11 from the Federal Bureau of Investigation shall be required only every three
12 years for renewal of a card for a dispensary owner, principal, and financier.

13 Sec. 10. REPEAL

14 2017 Acts and Resolves No. 11, Sec. 60 (amending 32 V.S.A. § 5412) is
15 repealed.

16 Sec. 11. EFFECTIVE DATE

17 This act shall take effect on passage.