

No. 11. An act relating to referral of domestic and sexual violence cases to community justice centers.

(H.41)

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

* * * Authority to Refer Domestic and Sexual Violence Cases to Community

Justice Centers in Accordance with Attorney General Protocols * * *

Sec. 1. 24 V.S.A. § 1966 is amended to read:

§ 1966. COMMUNITY JUSTICE CENTERS' RELATIONSHIP WITH
STATE GOVERNMENT ENTITIES

(a) Support from the Agency of Human Services. The Agency of Human Services shall provide to the community justice centers the information, analysis, and technical support that the community justice centers, in collaboration with the Agency of Human Services, determine are necessary to further their policy of restorative justice.

(b) Support from the Office of the Attorney General. The Community Justice Unit of the Office of the Attorney General shall provide to the community justice centers support for domestic violence and sexual violence case referrals in accordance with section 1968 of this title.

(c) Funding from the Agency of Human Services. The Agency of Human Services may provide funding and authorize community justice centers to participate in the implementation of State programs related to juvenile and criminal offenses.

~~(e)~~(d) Access to information. Community justice center employees and volunteers participating in State-funded programs shall have access to information, analysis, and technical support as necessary to carry out their duties within the program in accordance with State and federal confidentiality statutes and policies. Victim information that is not part of the public record shall not be released without the victim's consent.

~~(d)~~(e) Liability.

(1) For the purposes of defining liability, community justice center volunteers participating in programs funded by the Agency of Human Services pursuant to subsection ~~(b)~~(c) of this section shall be considered volunteers of that agency.

(2) In all other cases, the State and the municipality shall each be liable for the acts and omissions of employees operating within the scope of their employment.

Sec. 2. 24 V.S.A. § 1967 is amended to read:

§ 1967. CASES PROHIBITED

No case involving domestic violence, sexual violence, sexual assault, or stalking shall be referred to a community justice center except ~~in~~ through Department of Corrections offender reentry programs pursuant to protocols protecting victims, or as provided in section 1968 of this title. The community justice centers shall work with the Department of Corrections and the Center for Crime Victim Services or its designee to develop victim safety protocols

for community justice centers that take into consideration victim needs such as safety, confidentiality, and privacy.

Sec. 3. 24 V.S.A. §§ 1968 and 1969 are added to read:

§ 1968. REFERRALS FOR DOMESTIC VIOLENCE AND SEXUAL

VIOLENCE CASES; ATTORNEY GENERAL PROTOCOLS

(a) Notwithstanding section 1967 of this title, community justice centers may accept referrals for domestic violence and sexual violence cases, provided the community justice center has a current and executed memorandum of understanding with a local member organization of the Vermont Network Against Domestic and Sexual Violence (Vermont Network). Such memorandums of understanding shall include protocols set forth in subsection (c) of this section.

(b) If the restorative justice approach set forth in the memorandum of understanding includes law enforcement or prosecutor referrals, a prosecutor and law enforcement agency with jurisdiction shall be party to the memorandum of understanding.

(c) On or before July 1, 2024, the Community Justice Unit of the Office of the Attorney General (Community Justice Unit), in consultation with the Vermont Network and the Center for Crime Victim Services, shall create guidance for memorandums of understanding. Memorandums of understanding shall include protocols that:

- (1) establish a defined approach based on evidence or an established, promising program;
 - (2) prioritize victim safety;
 - (3) include voluntary referral and participation by parties;
 - (4) require initial and annual training for relevant community justice center staff, facilitators, and volunteers and relevant law enforcement and prosecutors on the dynamics involving domestic violence and sexual violence, trauma-informed approaches, and restorative justice principles;
 - (5) establish roles and participation of the community justice center, the local domestic and sexual violence organization, and other community partners as needed;
 - (6) establish written confidentiality standards that ensure constitutional protections and the privacy of participants;
 - (7) establish universal data collection standards developed by the Community Justice Unit; and
 - (8) establish written annual evaluation and quality improvement plans and processes that engage community and system stakeholders.
- (d) The Community Justice Unit shall review each memorandum of understanding to ensure compliance with the protocols set forth in subsection (c) of this section and guidance created by the Community Justice Unit. The Community Justice Unit may engage other stakeholders who are relevant to the defined approach under consideration in the review process.

(e) Once a memorandum of understanding has been verified for compliance by the Community Justice Unit and has been executed by the parties, community justice centers may accept referrals involving domestic violence or sexual violence.

(f) Information related to any offense that a person divulges in preparation for, during, or as a follow-up to the provision of programming pursuant to this section shall not be used against the person in any criminal, civil, family, or juvenile investigation, prosecution, or case for any purpose, including impeachment or cross-examination. This subsection shall not be construed to prohibit the limited disclosure or use of information to specific persons in the following circumstances:

(1) Where there is a threat or statement of a plan that a person may reasonably believe is likely to result in death or bodily injury to themselves or others or damage to the property of another person.

(2) When disclosure is necessary to report bodily harm any party causes another during the restorative justice programming.

(3) Where there is a reasonable suspicion of abuse or neglect of a child or vulnerable adult and a report is made in accordance with the provisions of 33 V.S.A. § 4914 or 33 V.S.A. § 6903 or to comply with another law.

(4) Where a court or administrative tribunal determines that the materials were submitted by a participant to the program for the purpose of avoiding discovery of the material in a court or administrative proceeding. If a

participant wishes to avail themselves of this provision, the participant may disclose this information in camera to a judicial officer for the purposes of seeking such a ruling.

§ 1969. PUBLIC RECORDS ACT EXEMPTION

(a) Any records or information produced or acquired pursuant to this chapter shall be kept confidential and shall be exempt from public inspection or copying under Vermont's Public Records Act.

(b) Notwithstanding subsection (a) of this section, a community justice center may disclose information to colleges, universities, public agencies of the State, and nonprofit research organizations that a community justice center has agreements with for use in connection with research projects of a public service nature, but no person associated with those institutions or agencies may disclose that information in any manner that would reveal the identity of an individual who provided the information to the community justice center.

Sec. 4. REPORT; COMMUNITY JUSTICE UNIT OF THE OFFICE OF
THE ATTORNEY GENERAL

(a) On or before December 1, 2025, the Community Justice Unit, in collaboration with the Vermont Network, and the participating community justice centers shall submit an interim report to the House and Senate Committees on Judiciary regarding the establishment of memorandums of understanding pursuant to 24 V.S.A. § 1968, the status of implementation of

programming, referral sources, available data on effectiveness, and the available resources and capacity for such programming.

(b) On or before July 1, 2028, the Community Justice Unit, in collaboration with the Vermont Network, and the participating community justice centers shall submit a final report to the House and Senate Committees on Judiciary regarding the establishment of memorandums of understanding pursuant to 24 V.S.A. § 1968, the status of implementation of programming, referral sources, available data on effectiveness, and the available resources and capacity for such programming.

* * * Effective Date * * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: May 8, 2023