

# Journal of the Senate

WEDNESDAY, JANUARY 31, 2024

The Senate was called to order by the President.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Message from the House No. 11

A message was received from the House of Representatives by Ms. Courtney Reckord, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 603.** An act relating to the poultry slaughter exception to inspection.

**H. 839.** An act relating to fiscal year 2024 budget adjustments.

In the passage of which the concurrence of the Senate is requested.

The House has adopted joint resolution of the following title:

**J.R.H. 9.** Joint resolution authorizing the Green Mountain Boys State educational program to use the State House facilities on June 27, 2024.

In the adoption of which the concurrence of the Senate is requested.

## Rules Suspended; Proposal of Amendment to the Vermont Constitution Committed *intact*

Proposal of amendment entitled:

**Prop 1.** Elections; sheriffs; qualifications.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Government Operations, Senator Baruth moved that Senate Rule 49 be suspended and the proposal of amendment be committed to the Committee on Judiciary with the report of the Committee on Government Operations *intact*,

Which was agreed to.

## Message from the Governor

**Appointment Referred**

A message was received from the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to a committee as indicated:

The nomination of

McNamara, Edward M. of Montpelier - Chair of the Public Utility Commission - from January 29, 2024 to February 28, 2029.

To the Committee on Finance.

**Joint Resolution Placed on Calendar****J.R.H. 9.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution authorizing the Green Mountain Boys State educational program to use the State House facilities on June 27, 2024

Whereas, the American Legion Department of Vermont sponsors the Green Mountain Boys State educational program, providing a group of boys entering the 12th grade a special opportunity to study the workings of State government, including conducting a mock legislative session at the State House, and

Whereas, this special experience is a unique civic lesson of lasting value for the participants, now therefore be it

Resolved by the Senate and House of Representatives:

That subject to the determination of and limitations that the Sergeant at Arms may establish, the Green Mountain Boys State educational program is authorized to use the chambers and committee rooms of the State House on Thursday, June 27, 2024, from 8:00 a.m. to 4:15 p.m., and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the American Legion Department of Vermont.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

**Committee Bills Introduced**

Senate committee bills of the following titles were severally introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

**S. 305.**

By the Committee on Natural Resources and Energy,  
An act relating to miscellaneous changes related to the Public Utility Commission.

**S. 306.**

By the Committee on Natural Resources and Energy,  
An act relating to changes to the Clean Heat Standard.

**S. 307.**

By the Committee on Natural Resources and Energy,  
An act relating to use of administrative use controls at contaminated sites.

**S. 308.**

By the Committee on Natural Resources and Energy,  
An act relating to updates to land use planning.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 603.**

An act relating to the poultry slaughter exception to inspection.  
To the Committee on Agriculture.

**H. 839.**

An act relating to fiscal year 2024 budget adjustments.  
To the Committee on Appropriations.

**Bill Amended; Third Reading Ordered**

**S. 190.**

Senator Norris, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to statements made by a child victim of an offense involving serious bodily injury.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Rule 15(e) of the Vermont Rules of Criminal Procedure is amended to read:

(e) Limitations.

\* \* \*

(5) Depositions of Minors in ~~Sexual Assault~~ Cases Involving Sexual Assault or Serious Bodily Injury.

(A) No deposition of a victim under the age of 16 shall be taken in a prosecution under 13 V.S.A. §§ 2601 (lewd and lascivious conduct), 2602 (lewd and lascivious conduct with a child), 3252 (sexual assault), 3253 (aggravated sexual assault), ~~or~~ 3253a (aggravated sexual assault of a child), or 13 V.S.A. § 1304(b) (cruelty to a child involving serious bodily) injury except by agreement of the parties or after approval of the court pursuant to subparagraph (B) of this paragraph (5).

(B) The court shall not approve a deposition under this subdivision unless the court finds that the testimony of the child is necessary to assist the trial, that the evidence sought is not reasonably available by any other means, and that the probative value of the testimony outweighs the potential detriment to the child of being deposed. In determining whether to approve a deposition under this subdivision, the court shall consider the availability of recorded statements of the victim and the complexity of the issues involved.

(C)(i) If a deposition is taken pursuant to this paragraph (5), the court shall issue a protective order to protect the deponent from emotional harm, unnecessary annoyance, embarrassment, oppression, invasion of privacy, or undue burden of expense or waste of time. The protective order may include, among other remedies, the following: (I) that the deposition may be taken only on specified terms and conditions, including a designation of the time, place, and manner of taking the deposition; (II) that the deposition may be taken only by written questions; (III) that certain matters not be inquired into, or that the scope of the deposition be limited to certain matters; (IV) that the deposition be conducted with only such persons present as the court may designate; or (V) that after the deposition has been taken, the tape or transcription be sealed until further order of the court. The restrictions of 13 V.S.A. § 3255(a) shall apply to depositions taken pursuant to this paragraph (5).

(ii) If a deposition is taken pursuant to this paragraph (5), the court shall appoint an attorney to represent the child for the purposes of the deposition.

Sec. 2. Rule 804a of the Vermont Rules of Evidence is amended to read:

RULE 804a. HEARSAY EXCEPTION; PUTATIVE VICTIM AGE 12 OR UNDER; PERSON WITH A MENTAL ILLNESS OR AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY

(a) Statements by a person who is a child 12 years of age or under or who is a person with a mental illness as defined in 18 V.S.A. § 7101(14) or intellectual or developmental disability as defined in 1 V.S.A. §§ 146, 148 at the time the statements were made are not excluded by the hearsay rule if the court specifically finds at the time they are offered that:

(1) the statements are offered in a civil, criminal, or administrative proceeding in which the child or person with a mental illness or intellectual or developmental disability is a putative victim of sexual assault under 13 V.S.A. § 3252, aggravated sexual assault under 13 V.S.A. § 3253, aggravated sexual assault of a child under 13 V.S.A. § 3253a, lewd or lascivious conduct under 13 V.S.A. § 2601, lewd or lascivious conduct with a child under 13 V.S.A. § 2602, incest under 13 V.S.A. § 205, abuse, neglect, or exploitation under 33 V.S.A. § 6913, sexual abuse of a vulnerable adult under 13 V.S.A. § 1379, or 13 V.S.A. § 1304(b) (cruelty to a child involving serious bodily injury) or wrongful sexual activity and the statements concern the alleged crime or the wrongful sexual activity; or the statements are offered in a juvenile proceeding under chapter 52 of Title 33 involving a delinquent act alleged to have been committed against a child 13 years of age or under or a person with a mental illness or intellectual or developmental disability if the delinquent act would be an offense listed herein if committed by an adult and the statements concern the alleged delinquent act; or the child is the subject of a petition alleging that the child is in need of care or supervision under chapter 53 of Title 33, and the statement relates to the sexual abuse of the child;

(2) the statements were not taken in preparation for a legal proceeding and, if a criminal or delinquency proceeding has been initiated, the statements were made prior to the defendant's initial appearance before a judicial officer under Rule 5 of the Vermont Rules of Criminal Procedure;

(3) the child or person with a mental illness or intellectual or developmental disability is available to testify in court or under Rule 807; and

(4) the time, content, and circumstances of the statements provide substantial indicia of trustworthiness.

(b) Upon motion of either party in a criminal or delinquency proceeding, the court shall require the child or person with a mental illness or intellectual or developmental disability to testify for the state.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate adopt the recommendation of amendment by the Committee on Judiciary?, Senator Vyhovsky moved to amend the recommendation of amendment of the Committee on Judiciary by adding a Sec. 2a to read as follows:

Sec. 2a. 24 V.S.A. § 1940 is amended to read:

§ 1940. SPECIAL INVESTIGATIVE UNITS; BOARDS; GRANTS

(a) Pursuant to the authority established under section 1938 of this title, and in collaboration with law enforcement agencies, investigative agencies, victims' advocates, and social service providers, the Department of State's Attorneys and Sheriffs shall coordinate efforts to provide access in each region of the State to special investigative units ~~which~~ that:

(1) shall investigate:

(A) an incident in which a child suffers, by other than accidental means, serious bodily injury as defined in 13 V.S.A. § 1021; and

(B) potential violations of:

(i) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);

(ii) 13 V.S.A. chapter 60 (human trafficking);

(iii) 13 V.S.A. chapter 64 (sexual exploitation of children);

(iv) 13 V.S.A. chapter 72 (sexual assault); and

(v) 13 V.S.A. § 1379 (sexual abuse of a vulnerable adult); and

(2) may investigate:

(A) an incident in which a child suffers:

(i) bodily injury, by other than accidental means, as defined in 13 V.S.A. § 1021; or

(ii) death;

(B) potential violations of:

(i) 13 V.S.A. § 2601 (lewd and lascivious conduct);

(ii) 13 V.S.A. § 2605 (voyeurism); and

(iii) 13 V.S.A. § 1304 (cruelty to a child); and

(3) may assist with the investigation of other incidents, including incidents involving domestic violence and crimes against vulnerable adults.

(b) Any interview of a child pursuant to this section shall be electronically recorded. As used in this subsection, “electronically recorded” means an audio and visual recording that is an authentic, accurate, unaltered record of the interview.

(c) A special investigative unit organized and operating under this section may accept, receive, and disburse in furtherance of its duties and functions any funds, grants, and services made available by the State of Vermont and its agencies, the federal government and its agencies, any municipality or other unit of local government, or private or civic sources. Any employee covered by an agreement establishing a special investigative unit shall remain an employee of the donor agency.

~~(e)~~(d) A Special Investigative Unit Grants Board is created, which shall comprise the Attorney General, the Secretary of Administration, the Executive Director of State’s Attorneys and Sheriffs, the Commissioner of Public Safety, the Commissioner for Children and Families, a representative of the Vermont Sheriffs’ Association, a representative of the Vermont Association of Chiefs of Police, the Executive Director of the Center for Crime Victim Services, and the Executive Director of the Vermont League of Cities and Towns. Special investigative units organized and operating under this section may apply to the Board for a grant or grants covering the costs of salaries and employee benefits to be expended during a given year for the performance of unit duties as well as unit operating costs for rent, utilities, equipment, training, and supplies. Grants under this section shall be approved by a majority of the entire Board and shall not exceed 50 percent of the yearly salary and employee benefit costs of the unit. Preference shall be given to grant applications which include the participation of the Department of Public Safety, the Department for Children and Families, sheriffs’ departments, community victims’ advocacy organizations, and municipalities within the region. Preference shall also be given to grant applications which promote policies and practices that are consistent across the State, including policies and practices concerning the referral of complaints, the investigation of cases, and the supervision and management of special investigative units. However, a sheriff’s department in a county with a population of fewer than 8,000 residents shall upon application receive a grant of up to \$20,000.00 for 50 percent of the yearly salary and employee benefits costs of a part-time special investigative unit investigator, which shall be paid to the department as time is billed on a per hour rate as agreed by contract up to the maximum amount of the grant.

~~(d)~~(e) The Board may adopt rules relating to grant eligibility criteria, processes for applications, awards, and reports related to grants authorized pursuant to this section. The Attorney General shall be the adopting authority.

Which was agreed to.

Thereupon, the recommendation of amendment of the Committee on Judiciary, as amended, was agreed to and third reading of the bill was ordered.

**Committee Relieved of Further Consideration; Bill Committed**

**S. 187.**

On motion of Senator Perchlik, the Committee on Transportation was relieved of further consideration of Senate bill entitled:

An act relating to student application of sunscreen and car seat safety, and the bill was committed to the Committee on Health and Welfare.

**Bills Committed**

Pending entry on the Calendar for notice, on motion of Senator Bray Senate bills entitled:

**S. 305.** An act relating to miscellaneous changes related to the Public Utility Commission.

**S. 306.** An act relating to changes to the Clean Heat Standard.

**S. 307.** An act relating to use of administrative use controls at contaminated sites.

**S. 308.** An act relating to updates to land use planning.

Were severally committed to the Committee on Natural Resources and Energy.

**Adjournment**

On motion of Senator Baruth, the Senate adjourned until one o'clock in the afternoon on Thursday, February 1, 2024.