

# Senate Calendar

FRIDAY, MARCH 17, 2023

SENATE CONVENES AT: 11:30 A.M.

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**ACTION CALENDAR**

**UNFINISHED BUSINESS OF THURSDAY, MARCH 16, 2023**

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 6.**

An act relating to custodial interrogation of juveniles.

**Reported favorably with recommendation of amendment by Senator Hashim for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 5585 is amended to read:

§ 5585. ~~ELECTRONIC RECORDING OF A CUSTODIAL INTERROGATION~~ DEFINITIONS

(a) As used in this ~~section~~ subchapter:

(1) “Custodial interrogation” means any interrogation:

(A) involving questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject; and

(B) in which a reasonable person in the subject’s position would consider the person to be in custody, starting from the moment a person should have been advised of the person’s Miranda rights and ending when the questioning has concluded.

(2) “Deception” includes the knowing communication of false facts about evidence, the knowing misrepresentation of the accuracy of the facts, the knowing misrepresentation of the law, or the knowing communication of unauthorized statements regarding leniency.

~~(2)~~(3) “Electronic recording” or “electronically recorded” means an audio and visual recording that is an authentic, accurate, unaltered record of a custodial interrogation, or if law enforcement does not have the current capacity to create a visual recording, an audio recording of the interrogation.

(4) “Law enforcement officer” has the same meaning as in 20 V.S.A. § 2351a.

(5) “Government agent” means:

(A) a school resource or safety officer; or

(B) an individual acting at the request or direction of a school resource or safety officer or a law enforcement officer.

~~(3)(6)~~ “Place of detention” means a building or a police station that is a place of operation for the State police, a municipal police department, county sheriff department, or other law enforcement agency that is owned or operated by a law enforcement agency at which persons are or may be questioned in connection with criminal offenses or detained temporarily in connection with criminal charges pending a potential arrest or citation.

~~(4)(7)~~ “Statement” means an oral, written, sign language, or nonverbal communication.

~~(b)(1)~~ A custodial interrogation that occurs in a place of detention concerning the investigation of a felony or misdemeanor violation of this title shall be electronically recorded in its entirety. Unless impracticable, a custodial interrogation occurring outside a place of detention concerning the investigation of a felony or misdemeanor violation of this title shall be electronically recorded in its entirety.

~~(2)~~ In consideration of best practices, law enforcement shall strive to record simultaneously both the interrogator and the person being interrogated.

~~(c)(1)~~ The following are exceptions to the recording requirement in subsection (b) of this section:

~~(A) exigent circumstances;~~

~~(B) a person’s refusal to be electronically recorded;~~

~~(C) interrogations conducted by other jurisdictions;~~

~~(D) a reasonable belief that the person being interrogated did not commit a felony or misdemeanor violation of this title and, therefore, an electronic recording of the interrogation was not required;~~

~~(E) the safety of a person or protection of the person’s identity; and~~

~~(F) equipment malfunction.~~

~~(2)~~ If law enforcement does not make an electronic recording of a custodial interrogation as required by this section, the prosecution shall prove by a preponderance of the evidence that one of the exceptions identified in subdivision (1) of this subsection applies. If the prosecution does not meet the burden of proof, the evidence is still admissible, but the court shall provide cautionary instructions to the jury regarding the failure to record the interrogation.

Sec. 2. 13 V.S.A. § 5586 is added to read:

§ 5586. ELECTRONIC RECORDING OF A CUSTODIAL INTERROGATION

(a)(1) A custodial interrogation that occurs in a place of detention concerning the investigation of a felony or misdemeanor violation of this title shall be electronically recorded in its entirety. Unless impracticable, a custodial interrogation occurring outside a place of detention concerning the investigation of a felony or misdemeanor violation of this title shall be electronically recorded in its entirety.

(2) In consideration of best practices, law enforcement shall strive to record simultaneously both the interrogator and the person being interrogated.

(b)(1) The following are exceptions to the recording requirement in subsection (a) of this section:

(A) exigent circumstances;

(B) a person's refusal to be electronically recorded;

(C) interrogations conducted by other jurisdictions;

(D) a reasonable belief that the person being interrogated did not commit a felony or misdemeanor violation of this title and, therefore, an electronic recording of the interrogation was not required;

(E) the safety of a person or protection of the person's identity; and

(F) equipment malfunction.

(2) If law enforcement does not make an electronic recording of a custodial interrogation as required by this section, the prosecution shall prove by a preponderance of the evidence that one of the exceptions identified in subdivision (1) of this subsection applies. If the prosecution does not meet the burden of proof, the evidence is still admissible, but the court shall provide cautionary instructions to the jury regarding the failure to record the interrogation.

Sec. 3. 13 V.S.A. § 5587 is added to read:

§ 5587. JUVENILES

(a) During a custodial interrogation of a person under 22 years of age relating to the commission of a criminal offense or delinquent act, a law enforcement officer or government agent shall not employ threats, physical harm, or deception.

(b)(1) Any admission, confession, or statement, whether written or oral, made by a person under 22 years of age and obtained in violation of subsection (a) of this section shall be presumed to be involuntary and inadmissible in any proceeding.

(2) The presumption that any such admission, confession, or statement is involuntary and inadmissible may be overcome if the State proves by clear and convincing evidence that the admission, confession, or statement was:

(A) voluntary and not induced by a law enforcement officer's or government agent's use of threats, physical harm, or deception prohibited by subsection (a) of this section; and

(B) any actions of a law enforcement officer or government agent in violation of subsection (a) of this section did not undermine the reliability of the person's admission, confession, or statement and did not create a substantial risk that the person might falsely incriminate themselves.

#### Sec. 4. VERMONT CRIMINAL JUSTICE COUNCIL; MODEL INTERROGATION POLICY

(a) On or before October 1, 2023, the Vermont Criminal Justice Council, in consultation with the Office of the Attorney General, shall collaborate and create a model interrogation policy that applies to all persons subject to various forms of interrogation, including the following:

(1) custodial interrogations occurring in a place of detention;

(2) custodial interrogations occurring outside a place of detention;

(3) interrogations that are not considered custodial, regardless of location; and

(4) the interrogation of individuals with developmental, intellectual, and psychiatric disabilities; substance use disorder; and low literacy levels.

(b) On or before January 1, 2024, the Vermont Criminal Justice Council, in consultation with stakeholders, including the Agency of Human Services, the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and the Innocence Project, shall update its model interrogation policy to establish one cohesive model policy for law enforcement agencies and constables to adopt, follow, and enforce as part of the agency's or constable's own interrogation policy.

Sec. 5. 20 V.S.A. § 2359 is amended to read:

#### § 2359. COUNCIL SERVICES CONTINGENT ON AGENCY COMPLIANCE; GRANT ELIGIBILITY

(a) On and after January 1, 2022, a law enforcement agency shall be prohibited from having its law enforcement applicants or officers trained by the Police Academy or from otherwise using the services of the Council if the agency is not in compliance with the requirements for collecting roadside stop data under section 2366 of this chapter, the requirement to report to the Office of Attorney General death or serious bodily injuries under 18 V.S.A. § 7257a(b), or the requirement to adopt, follow, or enforce any policy required under this chapter.

(b) On and after April 1, 2024, a law enforcement agency shall be prohibited from receiving grants, or other forms of financial assistance, if the agency is not in compliance with the requirement to adopt, follow, or enforce the model interrogation policy established by the Council pursuant to section 2371 of this title.

(c) The Council shall adopt procedures to enforce the requirements of this section, which may allow for waivers for agencies under a plan to obtain compliance with this section.

Sec. 6. 20 V.S.A. § 2371 is added to read:

§ 2371. STATEWIDE POLICY; INTERROGATION METHODS

(a) As used in this section:

(1) “Custodial interrogation” has the same meaning as in 13 V.S.A. § 5585.

(2) “Place of detention” has the same meaning as in 13 V.S.A. § 5585.

(b) The Council shall establish a model interrogation policy that applies to all persons subject to various forms of interrogation, including the following:

(1) custodial interrogations occurring in a place of detention;

(2) custodial interrogations occurring outside a place of detention;

(3) interrogations that are not considered custodial, regardless of location; and

(4) the interrogation of individuals with developmental, intellectual, and psychiatric disabilities; substance use disorder; and low literacy levels.

(c)(1) On or before April 1, 2024, each law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall adopt, follow, and enforce an interrogation policy that includes each component of the model interrogation policy established by the Council, and

each law enforcement officer or constable who exercises law enforcement authority shall comply with the provisions of agency's or constable's policy.

(2) On or before October 1, 2024, and every even-numbered year thereafter, the Vermont Criminal Justice Council, in consultation with others, including the Office of the Attorney General, the Agency of Human Services, and the Human Rights Commission, shall review and, if necessary, update the model interrogation policy.

(d) To encourage fair and consistent interrogation methods statewide, the Vermont Criminal Justice Council, in consultation with the Office of the Attorney General, shall review the policies of law enforcement agencies and constables required to adopt a policy pursuant to subsection (c) of this section, to ensure that those policies establish each component of the model policy on or before April 15, 2024. If the Council finds that a policy does not meet each component of the model policy, it shall work with the law enforcement agency or constable to bring the policy into compliance. If, after consultation with its attorney or with the Council, or with both, the law enforcement agency or constable fails to adopt a policy that meets each component of the model policy, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy established by the Council.

(e) The Council shall incorporate the provisions of this section into the training it provides.

(f) Annually, as part of their annual training report to the Council, every law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall report to the Council whether the agency or constable has adopted an interrogation policy in accordance with subsections (c) and (d) of this section. The Vermont Criminal Justice Council shall determine, as part of the Council's annual certification of training requirements, whether current officers have received training on interrogation methods as required by subsection (e) of this section.

(g) Annually, on or before July 1, the Vermont Criminal Justice Council shall report to the House and Senate Committees on Judiciary regarding which law enforcement agencies and officers have received training on interrogation methods.

## Sec. 7. APPROPRIATION

The sum of \$150,000.00 is appropriated from the General Fund to the Vermont Criminal Justice Council in fiscal year 2024 for the purpose of creating a Director of Policy position.



Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that Secs. 5 (council services contingent on agency compliance; grant eligibility) and 6 (statewide policy; interrogation methods) shall take effect on April 1, 2024.

And that after passage the title of the bill be amended to read:

An act relating to law enforcement interrogation policies.

(Committee vote: 5-0-0)

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Appropriations.**

The Committee recommends that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

By striking out Sec. 7, appropriation, in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. [Deleted.]

(Committee vote: 7-0-0)

**NEW BUSINESS**

**Third Reading**

**S. 37.**

An act relating to access to legally protected health care activity and regulation of health care providers.

**S. 48.**

An act relating to regulating the sale of catalytic converters.

**S. 94.**

An act relating to the City of Barre tax increment financing district.

**Committee Resolution for Second Reading**

**J.R.S. 19.**

Joint resolution relating to State lands transactions in Jamaica State Park and Coolidge State Forest.

**By the Committee on Institutions. (Senator Harrison for the Committee.)**

## **Second Reading**

### **Favorable**

#### **S. 93.**

An act relating to the sales tax exemption for advanced wood boilers.

**Reported favorably by Senator McCormack for the Committee on Finance.**

(Committee vote: 6-1-0)

### **Favorable with Recommendation of Amendment**

#### **S. 65.**

An act relating to commercial insurance coverage of epinephrine auto-injectors.

**Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Finance.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. chapter 107, subchapter 15 is added to read:

#### Subchapter 15. Epinephrine

#### § 4100m. EPINEPHRINE AUTO-INJECTORS; COVERAGE REQUIRED

(a) As used in this section, “health insurance plan” means any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this State by a health insurer. The term shall not include benefit plans providing coverage for a specific disease or other limited benefit coverage. “Health insurer” means any insurance company that provides health insurance as defined in subdivision 3301(a)(2) of this title, nonprofit hospital and medical service corporations, and health maintenance organizations.

(b) Except to the extent such coverage would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to 26 U.S.C. § 223, a health insurance plan shall provide coverage without any deductible, coinsurance, co-payment, or other cost-sharing requirement for epinephrine auto-injectors when prescribed by an insured’s health care provider.

Sec. 2. EFFECTIVE DATE

This act shall take effect on January 1, 2025 and shall apply to all health insurance plans issued on and after January 1, 2025 on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event later than January 1, 2026.

(Committee vote: 7-0-0)

**S. 104.**

An act relating to designating August 31 as Overdose Awareness Day.

**Reported favorably with recommendation of amendment by Senator Norris for the Committee on Government Operations.**

The Committee recommends that the bill be amended by adding a new Sec. 4 to read as follows:

Sec. 4. PROSPECTIVE REPEAL

1 V.S.A. § 378 (Overdose Awareness Day) and 1 V.S.A. § 496f (flag protocol; Overdose Awareness Day) are repealed effective September 1, 2033.

And by renumbering the remaining section to be numerically correct.

(Committee vote: 6-0-0)

**NOTICE CALENDAR**

**Committee Bills for Second Reading**

**S. 99.**

An act relating to miscellaneous changes to laws related to vehicles.

**By the Committee on Transportation. (Senator Chittenden for the Committee.)**

**Reported favorably by Senator Chittenden for the Committee on Finance.**

(Committee vote: 6-0-1)

**Reported favorably by Senator Perchlik for the Committee on Appropriations.**

(Committee vote: 7-0-0)

**Amendment to S. 99 to be offered by Senators Chittenden, Ingalls, Kitchel, Mazza and Perchlik**

Senators Chittenden, Ingalls, Kitchel, Mazza and Perchlik move to amend

the bill as follows

First: In Sec. 21, 23 V.S.A. § 1221, by striking out subdivisions (a)(3) and (4) in their entireties

Second: In Sec. 21, 23 V.S.A. § 1221, in subsections (b) and (c), by striking out “State or town”

**Amendment to S. 99 to be offered by Senator White**

Senator White moves to amend the bill by striking out Sec. 21, 23 V.S.A. § 1221, in its entirety and inserting in lieu thereof a new Sec. 21 to read as follows:

Sec. 21. 23 V.S.A. § 1221 is amended to read:

§ 1221. CONDITION OF VEHICLE; EXCESSIVE NOISE

(a) Definitions. As used in this section:

(1) “Exhaust system” means a series of mechanical devices designed or used for the purpose of receiving exhaust gas from an internal combustion engine and expelling it into the atmosphere.

(2) “Muffler” means a device consisting of a series of chambers or baffle plates, or other mechanical device designed for the purpose of receiving exhaust gas from an internal combustion engine, and that is effective in reducing noise.

(3) “State highway” has the same meaning as in 19 V.S.A. § 1(20).

(4) “Town highway” has the same meaning as in 19 V.S.A. § 1(23).

(b) Good mechanical condition. A motor vehicle, operated or driven on any State or town highway, shall be in good mechanical condition and shall be properly equipped.

(c) Mufflers and exhaust systems; prevention of noise.

(1)(A) A motor vehicle, operated or driven on any State or town highway, shall at all times be equipped with an adequate muffler and exhaust system in constant operation and properly maintained to prevent any noise over:

(i) the 83-decibel standard at 50 feet, for vehicles manufactured after January 1, 1979 and before January 1, 1988; and

(ii) the 80-decibel standard at 50 feet, for vehicles manufactured after January 1, 1988.

(B) No such muffler or exhaust system shall be equipped with a cut-out, bypass, or similar device that in any way limits the effectiveness of the muffler or exhaust system, or both, from receiving exhaust gas from an internal combustion engine and expelling it into the atmosphere or reducing noise, or both.

(2) Notwithstanding subdivision (1) of this subsection, every motorcycle manufactured after December 31, 1985, operated or driven on any State or town highway, shall at all times be equipped with a muffler bearing the U.S. Environmental Protection Agency required labeling applicable to the motorcycle's model year stating that the exhaust system meets the 80-decibel standard at 50 feet, as set out in 40 C.F.R. Part 205, Subparts D and E.

(3) No person shall modify the muffler or exhaust system of a motor vehicle in a manner that will amplify or increase the noise emitted by the motor or exhaust system of such vehicle above that emitted by the muffler or exhaust system originally installed on the vehicle, and such original muffler and exhaust system shall comply with all the requirements of this section.

(d) Exemption. The prohibitions of subsection (c) of this section shall not apply when a motor vehicle is operated anywhere other than a State or town highway.

#### **S. 100.**

An act relating to housing opportunities made for everyone.

**By the Committee on Economic Development, Housing and General Affairs. (Senator Ram Hinsdale for the Committee.)**

**Reported favorably with recommendation of amendment by Senator Bray for the Committee on Natural Resources and Energy.**

The Committee recommends that the bill be amended as follows:

First: In Sec. 2, 24 V.S.A. § 4412, in subdivision (12), by striking out the word “four” and inserting in lieu thereof the word five

Second: By striking out Sec. 6, 24 V.S.A. § 4465, in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. 24 V.S.A. § 4465 is amended to read:

§ 4465. APPEALS OF DECISIONS OF THE ADMINISTRATIVE OFFICER

(a) An interested person may appeal any decision or act taken by the administrative officer in any municipality by filing a notice of appeal with the secretary of the board of adjustment or development review board of that municipality or with the clerk of that municipality if no such secretary has

been elected. This notice of appeal must be filed within 15 days of following the date of that decision or act, and a copy of the notice of appeal shall be filed with the administrative officer.

(b) ~~For the purposes of~~ As used in this chapter, an “interested person” means any one of the following:

(1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.

(2) The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.

(3) A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person’s interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality.

(4) Any ~~ten~~ 10 persons who allege a common injury to a particularized interest protected by this chapter, who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.

(5) Any department and administrative subdivision of this State owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the Agency of Commerce and Community Development of this State.

\* \* \*

Third: By striking out Sec. 13, 24 V.S.A. § 3101(a), and its reader assistance heading in their entirety and inserting in lieu thereof a new Sec. 13 to read as follows:

\* \* \* Energy Codes \* \* \*

Sec. 13. 24 V.S.A. § 3101(a) is amended to read:

(a) The mayor and board of aldermen of a city, the selectboard of a town, or the trustees of an incorporated village, may, in accordance with this chapter, establish codes and regulations for the construction, maintenance, repair, and alteration of buildings and other structures within the municipality. Such codes and regulations may include provisions relating to building materials, structural design, passageways, stairways and exits, heating systems, fire protection procedures, and such other matters as may be reasonably necessary for the health, safety, and welfare of the public, but excluding electrical installations subject to regulation under 26 V.S.A. chapter 15. Any energy codes and regulations adopted after July 1, 2023 shall not be more restrictive than the Residential Building Energy Standards or the stretch code adopted under 30 V.S.A. § 51 or the Commercial Building Energy Standards adopted under 30 V.S.A. § 53, except where enabled by a municipal charter.

Fourth: By striking out Sec. 16, 10 V.S.A. § 6001, in its entirety and inserting in lieu thereof a new Sec. 16 to read as follows:

Sec. 16. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

\* \* \*

(3)(A) “Development” means each of the following:

\* \* \*

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction ~~or maintenance~~ of mobile homes or mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land and within any continuous period of five years. However:

\* \* \*

(xi) Until July 1, 2026, the construction of housing projects such as cooperatives, condominiums, dwellings, or mobile homes, with 25 or more units, constructed or maintained on a tract or tracts of land, located entirely within a designated downtown development district, a designated neighborhood development area, or a designated growth center, owned or controlled by a person, within a radius of five miles of any point on any involved land and within any continuous period of five years.

\* \* \*

(D) The word “development” does not include:

\* \* \*

(viii)(I) The construction of a priority housing project in a municipality with a population of 10,000 or more.

(II) If the construction of a priority housing project in this subdivision (3)(D)(viii) involves demolition of one or more buildings that are listed or eligible to be listed on the State or National Register of Historic Places, this exemption shall not apply unless the Division for Historic Preservation has made the determination described in subdivision (A)(iv)(I)(ff) of this subdivision (3) and any imposed conditions are enforceable in the manner set forth in that subdivision.

(III) Notwithstanding any other provision of law to the contrary, until July 1, 2026, the construction of a priority housing project located entirely within a designated downtown development district or a designated growth center.

\* \* \*

Fifth: By adding a new Sec. 16a. to read as follows:

Sec. 16a. 10 V.S.A. § 6086b is amended to read:

§ 6086b. DOWNTOWN DEVELOPMENT; FINDINGS; MASTER PLAN PERMITS

(a) Findings and conclusions. Notwithstanding any provision of this chapter to the contrary, each of the following shall apply to a development or subdivision that is completely within a downtown development district designated under 24 V.S.A. chapter 76A and for which a permit or permit amendment would otherwise be required under this chapter:

(1) In lieu of obtaining a permit or permit amendment, a person may request findings and conclusions from the District Commission, which shall approve the request if it finds that the development or subdivision will meet subdivisions 6086(a)(1) (air and water pollution), (2) (sufficient water available), (3) (burden on existing water supply), (4) (soil erosion), (5) (traffic), (8) (aesthetics, historic sites, rare and irreplaceable natural areas), (8)(A) (endangered species; necessary wildlife habitat), (9)(B) (primary agricultural soils), (9)(C) (productive forest soils), (9)(F) (energy conservation), and (9)(K) (public facilities, services, and lands) of this title.

\* \* \*



(b) Master plan permits.

(1) Any municipality within which a downtown development district or neighborhood development area has been formally designated pursuant to 24 V.S.A. chapter 76A may apply to the District Commission for a master plan permit for that area or any portion of that area pursuant to the rules of the Board. Municipalities making an application under this subdivision are not required to exercise ownership of or control over the affected property.

(2) Subsequent development of an individual lot within the area of the master plan permit that requires a permit under this chapter shall take the form of a permit amendment.

(3) In neighborhood development areas, subsequent master plan permit amendments may only be issued for development that is housing.

(4) In approving a master plan permit and amendments, the District Commission may include specific conditions that an applicant for an individual project permit will be required to meet.

(5) For a master plan permit issued pursuant to this section, an application for an amendment may use the findings issued in the master plan permit as a rebuttable presumption to comply within any applicable criteria under subsection 6086(a) of this title.

Sixth: By striking out Sec. 17, 10 V.S.A. § 6081, in its entirety and inserting in lieu thereof the following:

\* \* \* Enhanced Village Centers \* \* \*

Sec. 17. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

\* \* \*

(e)(1) A village center designated by the State Board pursuant to subsection (a) of this section is eligible to apply to the State Board to receive an enhanced designation. This enhanced designation allows a priority housing project with 50 or fewer units located entirely within the village center to be exempt from 10 V.S.A. chapter 151.

(2) To receive enhanced designation under this subsection, a village center shall have:

(A) duly adopted permanent zoning and subdivision bylaws;

(B) municipal sewer and water infrastructure; and

(C) adequate municipal staff to support coordinated comprehensive and capital planning, development review, and zoning administration.

Sec. 17a. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

\* \* \*

(y) Notwithstanding any other provision of law to the contrary, until July 1, 2026, no permit or permit amendment is required for a priority housing project with 50 or fewer units that is located entirely within a village center that has received enhanced designation under 24 V.S.A. § 2793a(e).

Seventh: By striking out Secs. 24 and 25 and their reader assistance heading in their entireties and inserting in lieu thereof the following:

\* \* \* Building energy code study committee \* \* \*

Sec. 24. FINDINGS

The General Assembly finds that:

(1) Vermont established the Residential Building Energy Standards (RBES) in 1997 and the Commercial Building Energy Standards (CBES) in 2007. The Public Service Department is responsible for adopting and updating these codes regularly but does not have the capacity to administer or enforce them.

(2) The RBES and CBES are mandatory, but while municipalities with building departments handle some aspects of review and inspection, there is no State agency or office designated to interpret, administer, and enforce them.

(3) The Division of Fire Safety in the Department of Public Safety is responsible for development, administration, and enforcement of building codes but does not currently have expertise or capacity to add administration or enforcement of energy codes in buildings.

(4) Studies in recent years show compliance with the RBES at about 54 percent and CBES at about 87 percent, with both rates declining. Both codes are scheduled to become more stringent with the goal of “net-zero ready” by 2030.

(5) In December 2022, the U.S. Department of Energy issued the Bipartisan Infrastructure Law: Resilient and Efficient Codes Implementation Funding Opportunity Announcement. The first \$45 million of a five-year \$225 million program is available in 2023. Vermont’s increased code compliance plans should include contingencies for this potential funding.

Sec. 25. ENERGY CODE COMPLIANCE; STUDY COMMITTEE

(a) Creation. There is created the Building Energy Code Study Committee to recommend strategies for increasing compliance with the Residential Building Energy Standards (RBES) and Commercial Building Energy Standards (CBES).

(b) Membership. The Committee shall have 15 members with applicable expertise, to include program design and implementation, building code administration and enforcement, and Vermont's construction industry. The Speaker of the House shall appoint three members, including up to one legislator. The Committee on Committees shall appoint two members, including up to one legislator. The remaining members shall be the following:

(1) the Commissioner of Public Service, or designee;

(2) the Director of Fire Safety, or designee;

(3) a representative of Efficiency Vermont;

(4) a representative of American Institute of Architects–Vermont;

(5) a representative of the Vermont Builders and Remodelers Association;

(6) a representative the Burlington Electric Department;

(7) a representative of Vermont Gas Systems;

(8) a representative of the Association of General Contractors of Vermont;

(9) a representative of the Vermont League of Cities and Towns; and

(10) a representative from a regional planning commission.

(c) Powers and duties. The Committee shall consider and recommend strategies to increase awareness of and compliance with the RBES and CBES, including designation of the Division of Fire Safety (DFS) in the Department of Public Safety as the statewide authority having jurisdiction for administration, interpretation, and enforcement, in conjunction with DFS' existing jurisdiction, over building codes.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Department of Public Service. The Department shall hire a third-party consultant to assist and staff the Committee which may be funded by monies appropriated by the General Assembly or any grant funding received.

(e) Report. On or before December 1, 2023, the Committee shall submit a written report to the General Assembly with its findings and recommendations for legislative action.

(f) Meetings.

(1) The Department of Public Service shall call the first meeting of the Committee to occur on or before July 15, 2023.

(2) The Committee shall elect a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The final meeting shall be held on or before October 31, 2023. The Committee shall cease to exist on December 1, 2023.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in the legislator's capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than six meetings.

(2) Other members of the Committee who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings.

(3) The payments under this subsection (g) shall be made from monies appropriated by the General Assembly or any grant funding received.

#### Sec. 25a. STUDY COMMITTEE; APPROPRIATION

The sum of \$125,000.00 is appropriated from the General Fund to the Department of Public Service in fiscal year 2024 for the purpose of hiring the consultant described in Sec. 24(d) of this act and to pay the Committee member per diem compensation.

(Committee vote: 4-1-0)

**Reported without recommendation by Senator Cummings for the Committee on Finance.**

(Committee vote: 7-0-0)

**S. 133.**

An act relating to miscellaneous changes to education law.

**By the Committee on Education. (Senator Campion for the Committee.)**

**Second Reading**

**Favorable**

**S. 35.**

An act relating to the Town of Hartford's tax increment financing district.

**Reported favorably by Senator McCormack for the Committee on Finance.**

(Committee vote: 6-1-0)

**Favorable with Recommendation of Amendment**

**S. 36.**

An act relating to permitting an arrest without a warrant for assaults and threats against health care workers and disorderly conduct at health care facilities.

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Rule 3 of the Vermont Rules of Criminal Procedure is amended to read:

Rule 3. Arrest Without a Warrant; Citation to Appear

\* \* \*

(c) Nonwitnessed Misdemeanor Offenses. If an officer has probable cause to believe a person has committed or is committing a misdemeanor outside the presence of the officer, the officer may issue a citation to appear before a judicial officer in lieu of arrest. The officer may arrest the person without a warrant if the officer has probable cause to believe:

\* \* \*

(8) The person has committed a misdemeanor which involves an assault against a family member, or against a household member, as defined in 15 V.S.A. § 1101(2), or a child of such a family or household member.

\* \* \*

(14) The person has violated 13 V.S.A. § 1023 (simple assault).

\* \* \*

(18) The person has committed a misdemeanor that involves an assault against a health care worker in a health care facility as those terms are defined in 13 V.S.A. § 1028(d).

(19) The person has violated 13 V.S.A. § 1702 (criminal threatening) against a health care worker in a health care facility as those terms are defined in 13 V.S.A. § 1028(d).

(20) The person has committed a violation of 13 V.S.A. § 1026 (disorderly conduct) that interfered with the provision of medically necessary health care services in a health care facility as defined in 13 V.S.A. § 1028(d).

Sec. 2. 18 V.S.A. § 1883 is added to read:

§ 1883. DISCLOSURE OF PROTECTED HEALTH INFORMATION  
REQUIRED

When an authorized representative of a health care facility that operates as a covered entity requests that a law enforcement officer respond to and potentially arrest a patient for an alleged crime committed on the premises, the facility shall disclose to the law enforcement officer information that is sufficient to confirm whether the patient is medically cleared so that the patient may be removed from the facility and shall disclose any other information that will be necessary for purposes of safely taking custody of the patient.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

**Reported favorably with recommendation of amendment by Senator Weeks for the Committee on Health and Welfare.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Rule 3 of the Vermont Rules of Criminal Procedure is amended to read:

Rule 3. Arrest Without a Warrant; Citation to Appear

\* \* \*

(c) Nonwitnessed Misdemeanor Offenses. If an officer has probable cause to believe a person has committed or is committing a misdemeanor outside the presence of the officer, the officer may issue a citation to appear before a judicial officer in lieu of arrest. The officer may arrest the person without a warrant if the officer has probable cause to believe:

\* \* \*

(8) The person has committed a misdemeanor which involves an assault against a family member, or against a household member, as defined in 15 V.S.A. § 1101(2), or a child of such a family or household member.

\* \* \*

(14) The person has violated 13 V.S.A. § 1023 (simple assault).

\* \* \*

(18) The person has committed a misdemeanor that involves an assault against a health care worker in a health care facility as those terms are defined in 13 V.S.A. § 1028(d).

(19) The person has violated 13 V.S.A. § 1702 (criminal threatening) against a health care worker in a health care facility as those terms are defined in 13 V.S.A. § 1028(d).

(20) The person has committed a violation of 13 V.S.A. § 1026(a)(1) (disorderly conduct for engaging in fighting or in violent, tumultuous, or threatening behavior) that interfered with the provision of medically necessary health care services in a health care facility as defined in 13 V.S.A. § 1028(d).

Sec. 2. 13 V.S.A. § 1702 is added to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct knowingly:

(1) threaten another person or a group of particular persons; and

(2) as a result of the threat, place the other person in reasonable apprehension of death, serious bodily injury, or sexual assault to the other person, a person in the group of particular persons, or any other person.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

\* \* \*

(f) A person who violates subsection (a) of this section with the intent to terrify, intimidate, or unlawfully influence the conduct of a candidate for public office, a public servant, an election official, or a public employee in any

decision, opinion, recommendation, vote, or other exercise of discretion taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, or with the intent to retaliate against a candidate for public office, a public servant, an election official, or a public employee for any previous action taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(g) A person who violates subsection (a) of this section with the intent to terrify or intimidate a health care worker because of the worker's previous action or inaction taken in the provision of health care services shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(h) As used in this section:

(1) "Serious bodily injury" has the same meaning as in section 1021 of this title.

(2) "Threat" and "threaten" do not include constitutionally protected activity.

(3) "Candidate" has the same meaning as in 17 V.S.A. § 2103.

(4) "Election official" has the same meaning as in 17 V.S.A. § 2455.

(5) "Public employee" means a classified employee within the Legislative, Executive, or Judicial Branch of the State and any of its political subdivisions and any employee within a county or local government and any of the county's or local government's political subdivisions.

(6) "Public servant" has the same meaning as in 17 V.S.A. § 2103.

(7) "Polling place" has the same meaning as described in 17 V.S.A. chapter 51, subchapter 4.

(8) "Sexual assault" has the same meaning as sexual assault as described in section 3252 of this title.

(9) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(10) "Health care worker" has the same meaning as in section 1028 of this title.

(h)(i) Any person charged under this section who is younger than the age identified in 33 V.S.A. § 5201(d) shall be subject to a juvenile proceeding.

Sec. 3. 18 V.S.A. § 1883 is added to read:

§ 1883. DISCLOSURE OF PROTECTED HEALTH INFORMATION



## REQUIRED

When an authorized representative of a health care facility that operates as a covered entity requests that a law enforcement officer respond to and potentially arrest a patient for an alleged crime committed on the premises, the facility shall disclose to the law enforcement officer information that is sufficient to confirm whether the patient is medically cleared so that the patient may be removed from the facility and shall disclose any other information that will be necessary for purposes of safely taking custody of the patient.

### Sec. 4. REPORT ON DE-ESCALATION

On or before January 15, 2024, the Vermont Program for Quality in Health Care, in consultation with stakeholders, shall provide a report to the Senate Committee on Health and Welfare and the House Committee on Health Care regarding de-escalation of potentially violent situations in health care facilities. With a health equity impact informed lens, the report shall include best practices for de-escalation, the types of de-escalation practices currently in use, barriers to training, and recommendations for appropriate policy improvements.

### Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

## **S. 60.**

An act relating to local option taxes.

**Reported favorably with recommendation of amendment by Senator Brock for the Committee on Finance.**

The Committee recommends that the bill be amended by striking out Sec. 2 (confidentiality of tax records) in its entirety and inserting in lieu thereof a new Sec. 2 and 3 to read as follows:

### Sec. 2. CHARTER ADOPTION APPROVAL

(a) The General Assembly approves the adoption of the charter of the Town of South Hero as set forth in this act.

(b) The General Assembly approves the local option tax proposed by the Town and authorizes the assessment of that tax as approved by the voters. On March 1, 2022, the voters of the Town of South Hero approved the adoption of a local option tax. The question on the ballot was: "Shall the Town of South Hero assess a one percent (1%) tax on meals and alcoholic beverages pursuant to Vermont Statute 24 V.S.A. § 138(b)? Such revenues will be expended for

municipal recreation and park facilities and Town structures per 24 V.S.A. § 138(d)(1).”

Sec. 3. 24 App. V.S.A. chapter 148 is added to read:

CHAPTER 148. TOWN OF SOUTH HERO

§ 1. LOCAL OPTION TAX

Notwithstanding the requirements of 1 V.S.A. § 138(a), the Town of South Hero is authorized to adopt a local option tax pursuant to 24 V.S.A. § 138.

And by renumbering the remaining section to be numerically correct.

(Committee vote: 7-0-0)

**CONCURRENT RESOLUTIONS FOR ACTION**

**Concurrent Resolutions For Action Under Joint Rule 16**

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session. Requests for floor consideration should be communicated to the Secretary’s Office.

**H.C.R. 48 - 56** (For text of Resolutions, see Addendum to House Calendar for March 16, 2023)

**CONFIRMATIONS**

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

John Hollar of Montpelier – Member of the Capitol Complex Commission – By Senator Wrenner for the Committee on Institutions (2/21/23)

Mark Nicholson of West Danville – Member of the Transportation Board – By Senator Ingalls for the Committee on Transportation (2/24/23)

Owen Foster of Jericho – Chair, Green Mountain Care Board – By Senator Lyons for the Committee on Health and Welfare (3/15/23)

June Tierney of Randolph Center – Commissioner, Department of Public Service – By Senator Cummings for the Committee on Finance (3/16/23)

### NOTICE OF JOINT ASSEMBLY

**March 28, 2023 - 1:00 P.M.** - House Chamber - Retention of a Chief Justice and four Associate Justices of the Supreme Court and eight Superior Court Judges.

### FOR INFORMATION ONLY

#### CROSSOVER DATES

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 17, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 17, 2023**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 24, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**Note:** The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

**Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills)**