

Senate Calendar

THURSDAY, FEBRUARY 21, 2013

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ACTION CALENDAR

NEW BUSINESS

Second Reading

Favorable

S. 99.

An act relating to the standard measure of recidivism.

Reported favorably by Senator Sears for the Committee on Judiciary.

(Committee vote: 5-0-0)

NOTICE CALENDAR

S. 13.

An act relating to nonschool recreational use of public school property.

Reported favorably by Senator McCormack for the Committee on Education.

(Committee vote: 5-0-0)

Favorable with Recommendation of Amendment

S. 19.

An act relating to prohibiting intentionally accessing child pornography through the Internet.

Reported favorably with recommendation of amendment by Senator Benning 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. § 2827 is amended to read:

§ 2827. POSSESSION OF CHILD PORNOGRAPHY

(a) No person shall, with knowledge of the character and content, knowingly possess with intent to view or access with intent to view any photograph, film, or visual depiction, including any depiction which is stored electronically, of sexual conduct by a child or of a clearly lewd exhibition of a child's genitals or anus.

* * *

(c) In any prosecution arising under this section, the defendant may raise any of the following affirmative defenses, which shall be proven by a preponderance of the evidence:

(1) ~~that~~ That the defendant in good faith had a reasonable basis to conclude that the child in fact had attained the age of 16 when the depiction was made;

(2) ~~that~~ That the defendant possessed or accessed depictions of child pornography and promptly and in good faith:

(A) took reasonable steps, whether successful or not, to destroy or eliminate the ~~depiction~~ depictions; or

(B) reported the matter to a law enforcement agency and afforded the agency access to the depictions.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

S. 31.

An act relating to prohibiting a court from consideration of interests in revocable trusts or wills when making a property settlement in a divorce proceeding.

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. 15 V.S.A. § 751 is amended to read:

§ 751. PROPERTY SETTLEMENT

* * *

(c)(1) Notwithstanding any provision of subsection (b) of this section to the contrary, in making a property settlement the court shall not consider the parties' interests in revocable estate planning instruments, including interests that pass at death by operation of law or by contract, unless the interest is vested and not capable of modification or divestment.

(2) This subsection shall not apply to estate planning instruments created by the parties of the divorce proceeding.

(3) A person shall not cause marital property to be placed in an estate planning instrument for the purpose of excluding it from a property settlement. A court may order a party to produce evidence related to an estate planning instrument if it appears that marital property may be included in the instrument.

(4) A person who is not party to the divorce may be subjected to discovery or compelled to testify on the subject of his or her own last will and testament, on any revocable trust of which he or she is settlor or, in conjunction with any of these instruments, on his or her assets if the court finds that a party has acted in bad faith regarding his or her opportunity to acquire capital assets and income in the future.

(5) The court may impose all applicable sanctions, including an award of attorney's fees, upon finding that a party acted in bad faith pursuant to this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

(Committee vote: 5-0-0)

House Proposal of Amendment to Senate Proposal of Amendment

H. 47

An act relating to fiscal year 2013 budget adjustment

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

First: By striking Sec. 11 (state police; budget) in its entirety and inserting in lieu thereof the following:

Sec. 11. Sec. B.209 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.209 Public safety - state police

Personal services	44,109,260	44,109,260
Operating expenses		7,777,093
Grants	<u>6,860,000</u>	<u>6,860,000</u>
Total	<u>58,012,353</u>	58,746,353

Source of funds

General fund	<u>20,087,245</u>	20,821,245
Transportation fund	25,238,498	25,238,498

Special funds	2,585,518	2,585,518
Federal funds	9,011,627	9,011,627
Interdepartmental transfers	<u>1,089,465</u>	<u>1,089,465</u>
Total	58,012,353	58,746,353

Second: By striking Sec. 15 (protection function total) in its entirety and inserting in lieu thereof the following:

Sec. 15. Sec. B.240 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.240 Total protection to persons and property

~~279,853,984~~ 282,833,185

Source of funds

General fund	106,194,812	109,237,894
Transportation fund	25,238,498	25,238,498
Special funds	67,957,274	67,957,274
Tobacco fund	790,816	790,816
Federal funds	58,191,789	58,191,789
ARRA funds	5,160,681	5,160,681
Global commitment fund	1,138,944	1,138,944
Interdepartmental transfers	8,765,826	8,701,945
Enterprise funds	<u>6,415,344</u>	<u>6,415,344</u>
Total	279,853,984	282,833,185

Third: In Sec. 89 (developmental services) by striking subsection (b) of Sec. E.333 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) in its entirety and inserting in lieu thereof the following:

(b) Any modifications to the State System of Care Plan made pursuant to this section shall be consistent with 18 V.S.A. chapter 204A and shall remain in effect until an annual revision or a new three-year plan is adopted pursuant to 18 V.S.A. § 8725, whichever occurs first.

CONCURRENT RESOLUTIONS FOR NOTICE

H.C.R. 34-38 (For text of Resolutions, see Addendum to House Calendar for February 21, 2013)

PUBLIC HEARINGS

Tuesday, February 26, 2013 – Room 11 – 7:00 P.M.– 8:30 P.M. Re Retention of Judges by Judicial Retention Committee

Wednesday, February 27, 2013 – Room 11 – 6:00 P.M. – 8:00 P.M. Re Childcare Provider Unions by Economic Development, Housing and General Affairs Committee

REPORTS ON FILE

Reports 2013

Pursuant to the provisions of 2 V.S.A. §20(c), one (1) hard copy of the following reports is on file in the office of the Secretary of the Senate. Effective January 2010, pursuant to Act No. 192, Adj. Sess. (2008) §5.005(g) some reports will automatically be sent by electronic copy only and can be found on the State of Legislative webpage.

1. Military Department Vermont National Guard Biennial Report. (January 2013)
2. Vermont Long Term Care Ombudsman Project. (January 2013)

NOTICE OF JOINT ASSEMBLY

JOINT ASSEMBLY

Thursday, February 21, 2013 – 10:30 A.M. – House Chamber – Election of a Sergeant at Arms, of an Adjutant and Inspector General, and of three (3) trustees for the University of Vermont, and Vermont State Agricultural College.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.

FOR INFORMATION ONLY

CROSSOVER DEADLINES

The following bill reporting deadlines are established for the 2013 session:

(1) From the standing committee of last reference (excluding the Committees on Appropriations and Finance), all Senate bills must be reported out of committee on or before March 15, 2013.

(2) Senate bills referred pursuant to Senate Rule 31, must be reported out of the Committees on Appropriations and Finance on or before March 22, 2013.

(3) These deadlines may be waived for any bill or committee **only** by consent given by the Committee on Rules.