

# Senate Calendar

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WEDNESDAY, JANUARY 06, 2016

**SENATE CONVENES AT: 1:00 P.M.**

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**ACTION CALENDAR**

**NEW BUSINESS**

**Senate Resolution For Action**

**S.R. 8.**

Senate resolution relating to the suspension of Senator Norman H. McAllister.

**PENDING ACTION:** Shall the resolution be adopted?

Text of resolution:

Resolved: That the Senate hereby suspends Senator Norman H. McAllister from exercising any of the powers of his office as a Member of the Senate until all criminal proceedings currently pending against him have been dismissed.

**NOTICE CALENDAR**

**Second Reading**

**Favorable**

**S. 94.**

An act relating to appointing municipal clerks and treasurers.

**Reported favorably by Senator Collamore for the Committee on Government Operations.**

(Committee vote: 5-0-0)

**Favorable with Recommendation of Amendment**

**S. 114.**

An act relating to the Open Meeting Law.

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

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. 1 V.S.A. § 312 is amended to read:

§ 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES

(a)(1) All meetings of a public body are declared to be open to the public at all times, except as provided in section 313 of this title. No resolution, rule,

regulation, appointment, or formal action shall be considered binding except as taken or made at such open meeting, except as provided under subdivision 313(a)(2) of this title. A meeting of a public body is subject to the public accommodation requirements of 9 V.S.A. chapter 139. A public body shall electronically record all public hearings held to provide a forum for public comment on a proposed rule, pursuant to 3 V.S.A. § 840. The public shall have access to copies of such electronic recordings as described in section 316 of this title.

(2) Participation in meetings through electronic or other means.

(A) As long as the requirements of this subchapter are met, one or more of the members of a public body may attend a regular, special, or emergency meeting by electronic or other means without being physically present at a designated meeting location.

(B) If one or more members attend a meeting by electronic or other means, such members may fully participate in discussing the business of the public body and voting to take an action, but any vote of the public body that is not unanimous shall be taken by roll call.

(C) Each member who attends a meeting without being physically present at a designated meeting location shall:

(i) identify himself or herself when the meeting is convened; and

(ii) be able to hear the conduct of the meeting and be heard throughout the meeting.

(D) If a quorum or more of the members of a public body attend a meeting without being physically present at a designated meeting location, the ~~following additional requirements shall be met:~~

~~(i) At least 24 hours prior to the meeting, or as soon as practicable prior to an emergency meeting, the public body shall publicly announce the meeting, and a municipal public body shall post notice of the meeting in or near the municipal clerk's office and in at least two other designated public places in the municipality.~~

~~(ii) The public announcement and posted notice of the meeting agenda required under subsection (d) of this section shall designate at least one physical location where a member of the public can attend and participate in the meeting. At least one member of the public body, or at least one staff or designee of the public body, shall be physically present at each designated meeting location.~~

(b)(1) Minutes shall be taken of all meetings of public bodies. The minutes shall cover all topics and motions that arise at the meeting and give a true

indication of the business of the meeting. Minutes shall include at least the following minimal information:

- (A) all members of the public body present;
- (B) all other active participants in the meeting;
- (C) all motions, proposals, and resolutions made, offered, and considered, and what disposition is made of same; and
- (D) the results of any votes, with a record of the individual vote of each member if a roll call is taken.

(2) Minutes of all public meetings shall be matters of public record, shall be kept by the clerk or secretary of the public body, and shall be available for inspection by any person and for purchase of copies at cost upon request after five calendar days from the date of any meeting. Meeting minutes shall be posted no later than ~~five~~ eight calendar days from the date of the meeting to a website, if one exists, that the public body maintains or has designated as the official website of the body. Except as authorized in this subsection, posted minutes shall not be removed from the website sooner than one year from the date of the meeting for which the minutes were taken.

\* \* \*

(d)(1) At least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting, a meeting agenda shall be:

- (A) posted to a website, if one exists, that the public body maintains or designates as the official website of the body; and
- (B) in the case of a municipal public body, posted in or near the municipal office and in at least two other designated public places in the municipality.

(2) A meeting agenda shall be made available to a person prior to the meeting upon specific request.

(3)(A) Any addition to or deletion from the agenda shall be made as the first act of business at the meeting.

(B) Any other adjustment to the agenda may be made at any time during the meeting.

\* \* \*

Sec. 2. 1 V.S.A. § 312(b)(2) is amended to read:

(2) Minutes of all public meetings shall be matters of public record, shall be kept by the clerk or secretary of the public body, and shall be available

for inspection by any person and for purchase of copies at cost upon request after five calendar days from the date of any meeting. Meeting minutes shall be posted no later than ~~eight~~ five calendar days from the date of the meeting to a website, if one exists, that the public body maintains or has designated as the official website of the body. Except as authorized in this subsection, posted minutes shall not be removed from the website sooner than one year from the date of the meeting for which the minutes were taken.

Sec. 3. 1 V.S.A. § 314(b) is amended to read:

(b)(1) Prior to instituting an action under subsection (c) of this section, the Attorney General or any person aggrieved by a violation of the provisions of this subchapter shall provide the public body written notice that alleges a specific violation of this subchapter and requests a specific cure of such violation. The public body will not be liable for attorney's fees and litigation costs under subsection (d) of this section if it cures in fact a violation of this subchapter in accordance with the requirements of this subsection.

(2) Upon receipt of the written notice of alleged violation, the public body shall respond publicly to the alleged violation within ~~seven-business~~ 10 calendar days by:

(A) acknowledging the violation of this subchapter and stating an intent to cure the violation within 14 calendar days; or

(B) stating that the public body has determined that no violation has occurred and that no cure is necessary.

(3) Failure of a public body to respond to a written notice of alleged violation within ~~seven-business~~ 10 calendar days shall be treated as a denial of the violation for purposes of enforcement of the requirements of this subchapter.

(4) Within 14 calendar days after a public body acknowledges a violation under subdivision (2)(A) of this subsection, the public body shall cure the violation at an open meeting by:

(A) if applicable, either ratifying, or declaring as void, any action taken at or resulting from a meeting ~~in violation of this subchapter~~ not noticed in accordance with subsection 312(c) of this title or at which the public was wrongfully excluded; and

(B) adopting specific measures that actually prevent future violations.

(5) Acknowledgment of a violation under this subsection shall not of itself subject a person to a criminal penalty under subsection (a) of this section.

Sec. 4. 2014 Acts and Resolves No. 143, Sec. 6 is amended to read:

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2014. However, a person who violates 1 V.S.A. § 312(b)(2) or 1 V.S.A. § 312(d)(1)(A) as amended by this act (~~requirement~~ requirements to post minutes and agenda to website, if any) shall not be subject to prosecution for such violation pursuant to 1 V.S.A. § 314(a) in connection with any meeting that occurs before July 1, 2015.

Sec. 5. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 2 shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

**S. 124.**

An act relating to expanding the scope of practice of Level II certified law enforcement officers.

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

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. 20 V.S.A. § 2358(b)(1) and (2), as amended by 2014 Acts and Resolves No. 141, Sec. 5, are amended to read:

(1) Level I certification.

(A) An applicant for certification as a Level I law enforcement officer shall first complete an off-site training program prior to entering and completing Level I basic training. Level I basic training shall include training to react to the circumstances described in subdivision (B) of this subdivision (1).

(B)(i) The scope of practice of a Level I law enforcement officer shall be limited to security, transport, vehicle escorts, and traffic control, as those terms are defined by the Council by rule, except that a Level I officer may react in the following circumstances if the officer determines that it is necessary to do any of the following:

(I) protect an individual in the presence of the officer from the imminent infliction of serious bodily injury;

(II) provide immediate assistance to an individual who has suffered or is threatened with serious bodily injury;

(III) detain or arrest an individual ~~whom~~ who the officer reasonably believes has committed a crime in the presence of the officer; or

(IV) detain or arrest an individual ~~whom~~ who the officer reasonably believes has committed a felony under Vermont law.

(ii) If a Level I officer reacts to any of the circumstances described in subdivision (i) of this subdivision (B), he or she shall call upon an officer certified to respond and assume law enforcement authority over the incident.

(2) Level II certification.

(A) An applicant for certification as a Level II law enforcement officer shall first complete Level II basic training and may then become certified in a specialized practice area as set forth in subdivision (B)(ii) of this subdivision (2). Level II basic training shall include training to respond to calls regarding alleged crimes in progress and to react to the circumstances described in subdivision (B)(iii) of this subdivision (2).

(B)(i) Except as provided in subdivisions (ii) and (iii) of this subdivision (B), the scope of practice of a Level II law enforcement officer shall be limited to investigating the following matters:

(I) 7 V.S.A. § 658 (sale or furnishing to minors; enabling consumption by minors);

(II) 13 V.S.A. chapter 7 (advertisements);

~~(III)~~ (III) 13 V.S.A. chapter 8 (humane and proper treatment of animals);

(IV) 13 V.S.A. §§ 505 (fourth degree arson), 508 (setting fires), and 509 (attempts);

~~(V)~~ (V) 13 V.S.A. chapter 19, subchapter 1 (riots);

~~(VI)~~ (VI) 13 V.S.A. §§ 1022 (noise in the nighttime), 1023 (simple assault), 1025 (recklessly endangering another person), 1026 (disorderly conduct), and 1027 (disturbing peace by use of telephone or other electronic communications), 1030 (violation of an abuse prevention order, an order against stalking or sexual assault, or a protective order concerning contact with a child), 1031 (interference with access to emergency services), 1042 (domestic assault), and 1062 (stalking);

~~(VII)~~ (VII) 13 V.S.A. chapter 35 (escape);

~~(VIII)~~ (VIII) 13 V.S.A. chapter 41 (false alarms and reports);

~~(IX)~~ (IX) 13 V.S.A. chapter 45 (flags and ensigns);

~~(VIII)~~ (X) 13 V.S.A. chapter 47 (frauds);  
~~(IX)~~ (XI) 13 V.S.A. chapter 49 (fraud in commercial transactions);  
~~(X)~~ (XII) 13 V.S.A. chapter 51 (gambling and lotteries);  
~~(XI)~~ (XIII) 13 V.S.A. chapter 57 (larceny and embezzlement), except for subchapter 2 (embezzlement);  
~~(XII)~~ (XIV) 13 V.S.A. chapter 67 (public justice and public officers);  
~~(XIII)~~ (XV) 13 V.S.A. chapter 69 (railroads);  
~~(XIV)~~ (XVI) 13 V.S.A. chapter 77 (trees and plants);  
~~(XV)~~ (XVII) 13 V.S.A. chapter 81 (trespass and malicious injuries to property);  
~~(XVI)~~ (XVIII) 13 V.S.A. chapter 83 (vagrants);  
~~(XVII)~~ (XIX) 13 V.S.A. chapter 85 (weapons);  
~~(XVIII)~~ (XX) 18 V.S.A. § 4230(a) (marijuana possession);  
(XXI) 18 V.S.A. § 4231(a) (cocaine possession);  
(XXII) 18 V.S.A. § 4232(a) (LSD possession);  
(XXIII) 18 V.S.A. § 4233(a) (heroin possession);  
(XXIV) 18 V.S.A. § 4234(a) (depressant, stimulant, or narcotic drug possession);  
(XXV) 18 V.S.A. § 4234a(a) (methamphetamine possession);  
(XXVI) 18 V.S.A. § 4235(b) (hallucinogenic drug possession);  
(XXVII) 18 V.S.A. § 4235a(a) (ecstasy possession);  
(XXVIII) 18 V.S.A. § 4476 (drug paraphernalia offenses);  
(XXIX) 21 V.S.A. § 692(c)(2) (criminal violation of stop-work order);  
(XXX) any misdemeanor set forth in Title 23 of the Vermont Statutes Annotated, except for 23 V.S.A. chapter 13, subchapter 13 (drunken driving);  
(XXXI) any motor vehicle accident that includes property damage and injuries, as permitted by the Council by rule;



~~(XXXII)~~ any matter within the jurisdiction of the Judicial Bureau as set forth in 4 V.S.A. § 1102;

~~(XXX)~~ ~~(XXXIII)~~ municipal ordinance violations;

~~(XX)~~ ~~(XXXIV)~~ any matter within the jurisdiction of a game warden or deputy game warden as set forth in 10 V.S.A. chapter 103, subchapter 4 (game wardens); and

~~(XXI)~~ ~~(XXXV)~~ any matter within the scope of practice of a Level I law enforcement officer.

(ii) In addition to the scope of practice permitted under subdivision (i) of this subdivision (B), a Level II law enforcement officer may also practice in additional areas approved in writing by the Council based on a special certification or training approved by the Council ~~pursuant to rules adopted by the Council.~~

(iii) Notwithstanding the limitations set forth in subdivisions (i) and (ii) of this subdivision (B), a Level II officer may respond to calls regarding alleged crimes in progress and may react in the following circumstances if the officer determines that it is necessary to do any of the following:

(I) protect an individual in the presence of the officer from the imminent infliction of serious bodily injury;

(II) provide immediate assistance to an individual who has suffered or is threatened with serious bodily injury;

(III) detain or arrest an individual ~~whom~~ who the officer reasonably believes has committed a crime in the presence of the officer; or

(IV) detain or arrest an individual ~~whom~~ who the officer reasonably believes has committed a felony under Vermont law.

(iv) If a Level II officer responds to calls regarding alleged crimes in progress or reacts to any of the circumstances described in subdivision (iii) of this subdivision (B) and that response or reaction is outside the scope of his or her scope of practice, he or she shall call upon an officer certified to respond and assume law enforcement authority over the incident.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

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

An act relating to the scopes of practice of Level I and Level II certified law enforcement officers.

(Committee vote: 5-0-0)

**NOTICE OF JOINT ASSEMBLY**

**January 7, 2016 - 2:00 p.m.** – House Chamber – State-of-the-State Address by the Honorable Peter E. Shumlin, Governor of the State of Vermont.

**January 21, 2016 - 2:00 p.m.** – House Chamber – Budget Address by the Honorable Peter E. Shumlin, Governor of the State of Vermont.