

# House Calendar

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Wednesday, February 07, 2018

36th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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## ORDERS OF THE DAY

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### **ACTION CALENDAR** **Action Postponed Until February 7, 2018** **Favorable with Amendment**

#### **H. 585**

An act relating to management of records

**Rep. Devereux of Mount Holly**, for the Committee on Government Operations, recommends the bill be amended as follows:

That the bill be amended by striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 1 V.S.A. § 317a is amended to read:

§ 317a. DISPOSITION MANAGEMENT OF PUBLIC RECORDS

(a)(1) Public records in general and archival records in particular should be systematically managed to provide ready access to vital information, to promote the efficient and economical operation of government, and to preserve their legal, administrative, and informational value.

(2) Any public agency may seek services from the Statewide Records and Information Management Program, as defined in 3 V.S.A. § 117(b) and administered by the Vermont State Archives and Records Administration, to establish, maintain, and implement an active and continuing internal records and information management program for the agency.

(b) A custodian of public records shall not destroy, give away, sell, discard, or damage any record or records in his or her charge, unless specifically authorized by law or under a record schedule, as defined in 3 V.S.A. § 117(a)(6), that has been approved by the State Archivist pursuant to 3 V.S.A. § 117(a)(5).

**( Committee Vote: 9-0-2)**

### **ACTION CALENDAR**

#### **Third Reading**

#### **H. 589**

An act relating to the reasonable and prudent parent standard

#### **H. 603**

An act relating to human trafficking

### H. 686

An act relating to establishing the Child Fatality Review Team

#### **Amendment to be offered by Rep. Keefe of Manchester to H. 686**

In Sec. 1, 18 V.S.A. § 1561, by inserting after subsection (h) a subsection (i) to read as follows:

(i) As used in this chapter, “child” means an individual from the time of birth to 18 years of age.

### H. 719

An act relating to insurance companies and trust companies

### H. 799

An act relating to notice of sale of property subject to unpaid property taxes

#### **Amendment to be offered by Reps. Murphy of Fairfax and Quimby of Concord to H. 799**

In Sec. 1, 32 V.S.A. § 5252(a), by striking out subdivisions (3) and (4) in their entirety and inserting in lieu thereof new subdivisions (3) and (4) to read as follows:

(3) Give the delinquent taxpayer written notice by ~~registered~~ certified mail requiring a return receipt directed to the last known address of the delinquent of the date and place of such sale at least 10 days prior thereto if the delinquent is a resident of the town, and 20 days prior thereto if the delinquent is a nonresident of the town. If the notice by certified mail is returned unclaimed, notice shall be provided to the taxpayer by resending the notice by first-class mail or by personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure.

(4) Give to the mortgagee or lien holder of record written notice of such sale at least 10 days prior thereto if a resident of the town, and if a nonresident, 20 days’ notice to the mortgagee or lien holder of record or his or her agent or attorney by ~~registered~~ certified mail requiring a return receipt directed to the last known address of such person. If the notice by certified mail is returned unclaimed, notice shall be provided by resending the notice by first-class mail or by personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure.

#### **Committee Bill for Second Reading**

### H. 846

An act relating to the application of general law to chartered municipalities.

**(Rep. Brumsted of Shelburne will speak for the Committee on Government Operations.)**

**Favorable**

**H. 748**

An act relating to electronic filing of proposed plans, plan amendments, and bylaws under Title 24

Rep. Hill of Wolcott, for the Committee on Commerce and Economic Development, recommends the bill ought to pass.

**( Committee Vote: 8-0-3)**

**Amendment to be offered by Rep. Marcotte of Coventry to H. 748**

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof new Secs. 1, 2, and 3 to read:

Sec. 1. 24 V.S.A. § 2793 is amended to read:

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

\* \* \*

(c) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a community's designation every five four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. ~~On and after July 1, 2014, any~~ Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the State Board determines that the downtown development district no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

\* \* \*

Sec. 2. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

\* \* \*

(d) The State Board shall review a village center designation every ~~five~~ eight years and may review compliance with the designation requirements at more frequent intervals. ~~On and after July 1, 2014, any~~ Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the State Board determines that the village center no longer meets the standards for designation established in subsection (a) of this section, it may take any of

the following actions:

\* \* \*

Sec. 3. 24 V.S.A. § 2793b is amended to read:

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT DISTRICTS

\* \* \*

(d) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a new town center designation ~~every five~~ four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. The State Board may adjust the schedule of review under this subsection to coincide with the review of a related growth center. If at any time the State Board determines the new town center no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

\* \* \*

Second: By renumbering the remaining sections to be numerically correct.

and that after passage the title of the bill be amended to read: “An act relating to State designations and electronic filing of proposed plans, plan amendments, and bylaws under Title 24”

## NOTICE CALENDAR

### Favorable with Amendment

#### H. 663

An act relating to municipal land use regulation of accessory on-farm businesses

**Rep. Partridge of Windham**, for the Committee on Agriculture and Forestry, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

The General Assembly adopts this act to:

(1) promote and facilitate the economic viability of Vermont’s farms; and

(2) increase the consistency across the State of municipal regulation and permitting of accessory activity that supports those farms.

Sec. 2. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

\* \* \*

(11) Accessory on-farm businesses. No bylaw shall have the effect of prohibiting an accessory on-farm business at the same location as a farm.

(A) Definitions. As used in this subdivision (11):

(i) “Accessory on-farm business” means activity that is accessory to a farm and comprises one or both of the following:

(I) The storage, preparation, processing, and sale of qualifying products, provided that more than 50 percent of the total annual sales are from qualifying products that are principally produced on the farm at which the business is located.

(II) Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products.

(ii) “Farm” means a parcel or parcels owned, leased, or managed by a person, devoted primarily to farming, and subject to the RAP rules. For leased lands to be part of a farm, the lessee must exercise control over the lands to the extent they would be considered as part of the lessee’s own farm. Indicators of such control include whether the lessee makes day-to-day decisions concerning the cultivation or other farming-related use of the leased lands and whether the lessee manages the land for farming during the lease period.

(iii) “Farming” shall have the same meaning as in 10 V.S.A. § 6001.

(iv) “Qualifying product” means a product that is wholly:

(I) an agricultural, horticultural, viticultural, or dairy commodity, or maple syrup;

(II) livestock or cultured fish or a product thereof;

(III) a product of poultry, bees, an orchard, or fiber crops;

(IV) a commodity otherwise grown or raised on a farm; or

(V) a product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.

(v) “RAP rules” means the rules on required agricultural practices

adopted pursuant to 6 V.S.A. chapter 215, subchapter 2.

(B) Eligibility. For an accessory on-farm business to be eligible for the benefit of this subdivision (11), the business shall comply with each of the following:

(i) The business is operated by the farm owner, one or more persons residing on the farm parcel, or the lessee of a portion of the farm.

(ii) The farm meets the threshold criteria for the applicability of the RAP rules as set forth in those rules.

(C) Use of structures or land. An accessory on-farm business may take place inside new or existing structures or on the land.

(D) Review; permit. Activities of an accessory on-farm business that are not exempt under section 4413 of this title may be subject to site plan review pursuant to section 4416 of this title. A bylaw may require that such activities meet the same performance standards otherwise adopted in the bylaw for similar commercial uses pursuant to subdivision 4414(5) of this title.

(E) Less restrictive. A municipality may adopt a bylaw concerning accessory on-farm businesses that is less restrictive than the requirement of this subdivision (11).

(F) Notification; training. The Secretary of Agriculture, Food and Markets shall provide periodic written notification and training sessions to farms subject to the RAP rules on the existence and requirements of this subdivision (11) and the potential need for other permits for an accessory on-farm business, including a potable water and wastewater system permit under 10 V.S.A. chapter 64.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

**( Committee Vote: 11-0-0)**

### **H. 690**

An act relating to explanation of advance directives and treating clinicians who may sign a DNR/COLST

**Rep. Haas of Rochester**, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

As used in this chapter:

\* \* \*

(21) "Ombudsman" means:

(A) an individual appointed as a long-term care ombudsman under the program contracted through the Department of Disabilities, Aging, and Independent Living pursuant to the Older Americans Act of 1965, as amended the State Long-Term Care Ombudsman or a representative of the Ombudsman's Office, as defined in 33 V.S.A. § 7501; or

(B) a representative of the agency designated as the Office of the Mental Health Care Ombudsman pursuant to section 7259 of this title.

\* \* \*

(34) "Patient Mental health patient representative" means the mental health patient representative established by section 7253 of this title.

Sec. 2. 18 V.S.A. § 9703 is amended to read:

§ 9703. FORM AND EXECUTION

\* \* \*

(b) The advance directive shall be dated, executed by the principal or by another individual in the principal's presence at the principal's express direction if the principal is physically unable to do so, and signed in the presence of two or more witnesses at least 18 years of age, who shall sign and affirm that the principal appeared to understand the nature of the document and to be free from duress or undue influence at the time the advance directive was signed. A health care provider may serve as a witness to the principal's execution of the advance directive under this subsection. If the principal is being admitted to or is a resident of a nursing home or residential care facility or is being admitted to or is a patient in a hospital at the time of execution, the individual who explained the nature and effect of the advance directive to the principal pursuant to subsection (d) or (e) of this section may also serve as one of the witnesses to the principal's execution of the advance directive under this subsection.

\* \* \*

(d)(1) An advance directive shall not be effective if, at the time of execution, the principal is being admitted to or is a resident of a nursing home as defined in 33 V.S.A. § 7102 or a residential care facility, unless an ombudsman, a patient representative, a recognized member of the clergy, an attorney licensed to practice in this State, or a Probate Division of the Superior Court designee one of the following individuals explains the nature and effect of an advance directive to the principal and signs a statement affirming that he or she has explained the nature and effect of the advance directive to the

~~principal~~ provided the explanation:

- ~~(A) an ombudsman;~~
- ~~(B) a recognized member of the clergy;~~
- ~~(C) an attorney licensed to practice in this State;~~
- ~~(D) a Probate Division of the Superior Court designee;~~
- ~~(E) an individual designated by a hospital pursuant to subsection 9709(d) of this title;~~
- ~~(F) a mental health patient representative;~~
- ~~(G) an individual who is volunteering at the nursing home or residential care facility without compensation and has received appropriate training regarding the explanation of advance directives; or~~
- ~~(H) the principal's primary care clinician, if the clinician is not employed by the nursing home or residential care facility at the time of the explanation.~~

(2) It is the intent of this subsection to ensure that residents of nursing homes and residential care facilities are willingly and voluntarily executing advance directives.

(e) An advance directive shall not be effective if, at the time of execution, the principal is being admitted to or is a patient in a hospital, unless ~~an ombudsman, a patient representative, a recognized member of the clergy, an attorney licensed to practice in this State, a Probate Division of the Superior Court designee, or an individual designated under subsection 9709(c) of this title by the hospital~~ one of the following individuals has explained the nature and effect of an advance directive to the principal and signs a statement affirming that he or she has explained the nature and effect of the advance directive to the principal provided the explanation:

- (1) an ombudsman;
- (2) a recognized member of the clergy;
- (3) an attorney licensed to practice in this State;
- (4) a Probate Division of the Superior Court designee;
- (5) an individual designated by the hospital pursuant to subsection 9709(d) of this title; or
- (6) a mental health patient representative.

\* \* \*

Sec. 3. 18 V.S.A. § 9708 is amended to read:

§ 9708. AUTHORITY AND OBLIGATIONS OF HEALTH CARE PROVIDERS, HEALTH CARE FACILITIES, AND RESIDENTIAL CARE FACILITIES REGARDING DNR ORDERS AND COLST

(a) As used in this section, “clinician” shall have the same meaning as in section 9701 of this title and shall also include a duly licensed medical doctor, osteopathic physician, advanced practice registered nurse or nurse practitioner, or physician assistant who treated the patient outside Vermont and held a valid license to practice in the state in which the patient was located at the time the DNR/COLST was issued.

\* \* \*

Sec. 4. 18 V.S.A. § 9709(d) is amended to read:

(d)(1) Each nursing home and residential care facility that chooses to use volunteers to explain to residents the nature and effect of an advance directive as required by subsection 9703(d) of this title shall ensure that the volunteers have received appropriate training regarding the explanation of advance directives.

(2) Every hospital shall designate an adequate number of individuals to explain the nature and effect of an advance directive to patients as required by subsection 9703(e) of this title.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

**( Committee Vote: 11-0-0)**

**Favorable**

**H. 616**

An act relating to thermal efficiency monies and biomass-led district heat

Rep. Yantachka of Charlotte, for the Committee on Energy and Technology, recommends the bill ought to pass.

**( Committee Vote: 8-0-0)**

**Ordered to Lie**

**H. 167**

An act relating to alternative approaches to addressing low-level illicit drug use.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

## **H. 219**

An act relating to the Vermont spaying and neutering program.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

## **H. 581**

An act relating to Connectivity Initiative grant eligibility.

Pending Action: Second Reading.

### **Public Hearings**

#### **PUBLIC HEARING**

Joint Community-Based Public Hearings on Fiscal Year 2019 State budget  
House and Senate Committees on Appropriations

**Monday, February 12, 2018, 6:00 - 7:00 p.m.** – The Vermont House and Senate Committees on Appropriations are seeking public input on the FY2019 recommended State budget and will hold joint public hearings at 6 locations across the State.

**Johnson State College:** Stearns Student Center, Performance Space, 2<sup>nd</sup> Floor in Stearns

**Rutland City:** Rutland Public Schools, Longfellow School Building, Board Room

**St. Albans City:** St. Albans City School, Library, 29 Bellows St.

**St. Johnsbury:** St. Johnsbury House, Main dining room, 1207 Main St.

**Winooski:** Community College of Vermont, Room 401, 4<sup>th</sup> Floor

**Springfield:** Springfield Town Hall, 96 Main Street, 3<sup>rd</sup> Floor Conference Room (Selectmen's Hall) **5:30-6:30 p.m.**

An additional public hearing will be held on **Tuesday, February 13, 2018, 6:00 – 7:00 p.m.** in **room 11** of the **State House in Montpelier.**

The Committees will take testimony on the Governor's FY 2019 State budget proposal at that time. Anyone interested in testifying should come to one of the hearings. Time limits on testimony may apply depending on volume of participants.

For more information about the format of these events, or to submit written testimony, e-mail Theresa Utton-Jerman at [tutton@leg.state.vt.us](mailto:tutton@leg.state.vt.us) or Rebecca Buck at [rbuck@leg.state.vt.us](mailto:rbuck@leg.state.vt.us), or call 802-828-5767 or 802-828-2295.

Public Hearing on Judicial Retention. Thursday, February 22, 2018, 7:00 PM in Room 11.

### **Information Notice**

#### **CROSS OVER DATES**

The Joint Rules Committee established the following Crossover deadlines:

(1) All **House** bills must be reported out of the last committee of reference including the Committees on Appropriations and Ways and Means, except as provided below in (2) on or before **Friday, March 2, 2018**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **House** bills referred pursuant to House Rule 35(a) to the Committees on Appropriations and Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.

#### **Election of two (2) trustees for the Vermont State Colleges Corporation. Thursday, February 15, 2018 - 10:30 A.M.**

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than Thursday, February 8, 2018, by 5:00 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

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.