

House Calendar

Tuesday, February 27, 2018

56th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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ACTION CALENDAR

Third Reading

H. 895

An act relating to legislative review of certain report requirements

Favorable with Amendment

H. 199

An act relating to reinstating legislative members to the Commission on Alzheimer's Disease and Related Disorders

Rep. Noyes of Wolcott, 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. 3 V.S.A. § 3085b is amended to read:

§ 3085b. COMMISSION ON ALZHEIMER'S DISEASE AND RELATED DISORDERS

(a) The Commission on Alzheimer's Disease and Related Disorders is created.

(b) The Commission shall be composed of ~~18~~ 20 members: the Commissioners of Disabilities, Aging, and Independent Living and of Health or designees, one Senator chosen by the Senate Committee on Committees, one Representative chosen by the Speaker of the House, and 16 members appointed by the Governor. The members appointed by the Governor shall represent the following groups and organizations: physicians, social workers, nursing home managers, including the administrators of the Vermont Veterans' Home, the clergy, adult day center providers, the business community, registered nurses, residential care home operators, family care providers, the home health agency, the legal profession, mental health service providers, the area agencies on aging, University of Vermont's Center on Aging, the Support and Services at Home (SASH) program, and the Alzheimer's Association. The members appointed by the Governor shall represent, to the degree possible, the five regions of the State.

(c) Eight of the members appointed by the Governor shall serve terms of two years and eight of the members shall serve terms of three years. Members shall serve until their successors are appointed. Members may serve more than one term. ~~Members first appointed to the Commission prior to January 1, 2015, may apply to serve no more than one additional term of either two or~~

~~three years following the expiration of their current term. Members first appointed to the Commission after January 1, 2015, shall serve a maximum of two terms. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed only for the unexpired portion of the term, and if the unexpired portion of the term is less than or equal to one year, the member appointed to fill the vacancy occurring other than by expiration of a term may thereafter apply to serve a maximum of two additional terms.~~

(d)(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than four meetings.

(2) Members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010 for ~~no~~ not more than four meetings per year. Payment to the members shall be from the appropriation to the Department of Disabilities, Aging, and Independent Living.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee Vote: 11-0-0)

Rep. Lanpher of Vergennes, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Human Services.

(Committee Vote: 9-1-1)

H. 608

An act relating to creating an Older Vermonters Act working group

Rep. Wood of Waterbury, 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. FINDINGS AND PURPOSE

(a) The General Assembly finds that:

(1) Vermont's demographics are shifting, with Vermonters 60 years of age or older becoming a larger percentage of the population.

(2) The Older Americans Act provides a blueprint for states to develop a comprehensive and coordinated system of services and supports for older

persons and family caregivers to support the ability of older persons to age with dignity, respect, and independence.

(3) The Older Americans Act tasks Vermont with taking limited resources and using them as strategically as possible, targeting services to those in the greatest economic and social need.

(4) The Department of Disabilities, Aging, and Independent Living, as the State Unit on Aging, is required by the Older Americans Act to develop periodically a State Plan on Aging, and the five designated Area Agencies on Aging are similarly required to develop Area Plans for their planning and service areas. The State Plan on Aging and the Area Plans outline goals and objectives for the State and the Area Agency on Aging service areas to improve services to and outcomes for older Vermonters and family caregivers.

(5) The Vermont Futures Project estimates that Vermont will need 11,000 more workers annually to maintain the current level of economic growth. Many older Vermonters would benefit from full- or part-time employment.

(6) Many older Vermonters would also benefit from continued or increased involvement in their communities through participation in volunteer activities and opportunities for civic engagement.

(b) The purpose of this act is to establish a working group that shall develop recommendations for an Older Vermonters Act aligned with the federal Older Americans Act, the Vermont State Plan on Aging, and the Choices for Care program. The working group shall address the value of older Vermonters to the fabric of the State's communities, as well as the service and support needs that older Vermonters may have.

Sec. 2. DEFINITIONS

As used in this act:

(1) "Area Agency on Aging" means an organization designated by the State to develop a comprehensive and coordinated system of services and supports for older Vermonters within a defined planning and service area of the State.

(2) "Choices for Care program" means the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 demonstration.

(3) "Family caregiver" means an adult family member or other individual who is an informal provider of in-home and community care to an older Vermonter or to an individual with Alzheimer's disease or a related disorder.

(4) “Older Americans Act” means the federal law originally enacted in 1965 to facilitate a comprehensive and coordinated system of supports and services for older Americans and their caregivers.

(5) “Older Vermonter” means, consistent with the Older Americans Act, an individual residing in this State who is 60 years of age or older.

(6) “State Plan on Aging” means the plan required by the Older Americans Act that outlines the roles and responsibilities of the State and the Area Agencies on Aging in administering and carrying out the Older Americans Act.

(7) “State Unit on Aging” means an agency within a state’s government that is directed to administer the Older Americans Act programs and to develop the State Plan on Aging in that state. In Vermont, the Department of Disabilities, Aging, and Independent Living is the designated State Unit on Aging.

Sec. 3. OLDER VERMONTERS ACT WORKING GROUP; REPORT

(a) Creation. There is created an Older Vermonters Act working group for the purpose of developing recommendations for an Older Vermonters Act that aligns with the federal Older Americans Act, the Vermont State Plan on Aging, and the Choices for Care program.

(b) Membership. The working group shall be composed of the following 15 members:

(1) one current member of the House of Representatives appointed by the Speaker of the House;

(2) one current member of the Senate appointed by the Committee on Committees;

(3) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(4) the Director of Health Promotion and Disease Prevention at the Department of Health or designee;

(5) the Executive Director of the Vermont Association of Area Agencies on Aging or designee;

(6) the State Long-Term Care Ombudsman;

(7) the Director of Vermont Associates for Training and Development or designee;

(8) a representative of the Vermont Association of Adult Day Services, appointed by the Association;

(9) a representative of home health agencies, appointed jointly by the VNAs of Vermont and Bayada Home Health Care;

(10) a representative of long-term care facilities, appointed by the Vermont Health Care Association;

(11) the Director of the Center on Aging at the University of Vermont or designee;

(12) a representative of the Vermont Association of Senior Centers and Meal Providers, appointed by the Association;

(13) two older Vermonters from different regions of the State, appointed by the Advisory Board established by 33 V.S.A. § 505; and

(14) a family caregiver of an older Vermonter, appointed by the Advisory Board established by 33 V.S.A. § 505.

(c) Powers and duties. The working group, in consultation with elder care mental health clinicians, the Vermont Chamber of Commerce, the Community of Vermont Elders, the Alzheimer's Association, AARP Vermont, the Elder Law Project at Vermont Legal Aid, the Vermont Public Transportation Association, and other interested stakeholders, shall develop recommendations on the following:

(1) the authority and responsibilities of the Vermont Department of Disabilities, Aging, and Independent Living as a State Unit on Aging;

(2) the authority and responsibilities of the Vermont Department of Disabilities, Aging, and Independent Living with respect to the management, approval, and oversight of services provided to eligible older Vermonters through the Choices for Care program;

(3) the roles and responsibilities of the Area Agencies on Aging as the designated regional planning organizations serving older Vermonters and family caregivers;

(4) the roles and responsibilities of the network of providers of services to older Vermonters and family caregivers;

(5) a description of a comprehensive and coordinated system of services and supports for older Vermonters and family caregivers as envisioned by the Older Americans Act and the Choices for Care program, including supportive services, nutrition services, health promotion and disease prevention services, family caregiver services, employment services, and protective services;

(6) a description of how such a system would be coordinated across State agencies, provider networks, and geographic regions;

(7) how to ensure that such a system would target those in greatest

economic and social need;

(8) ways to encourage and educate older Vermonters to continue in the workforce and to become or remain involved in their communities through participation in volunteer activities and opportunities for civic engagement; and

(9) ways to educate employers about the value of the older Vermont talent cohort and the benefits of maintaining a multigenerational workforce, as well as identification of models that may be replicated across sectors and industries.

(d) Assistance. The working group shall have the administrative, technical, and legal assistance of the Department of Disabilities, Aging, and Independent Living.

(e) Report. On or before December 1, 2019, the working group shall submit its recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Commissioner of Disabilities, Aging, and Independent Living or designee shall chair the working group and shall call the first meeting of the working group, which shall occur on or before September 15, 2018.

(2) The working group shall meet as often as reasonably necessary to develop its recommendations, but not less frequently than once every two months.

(3) The working group shall cease to exist upon submitting its report to the General Assembly on or before December 1, 2019.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the working group serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(2) Other members of the working group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance at meetings of the working group shall be entitled to reimbursement of expenses pursuant to 32 V.S.A. § 1010.

(3) Payments to members of the working group authorized under subdivision (2) of this subsection shall be made from monies appropriated to the Department of Disabilities, Aging, and Independent Living.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee Vote: 11-0-0)

Rep. Lanpher of Vergennes, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Human Services and when further amended as follows:

In Sec. 3, Older Vermonters Act working group; report, in subdivision (f)(2), by inserting before the period “and for a total of not more than eight meetings”

(Committee Vote: 9-0-2)

H. 638

An act relating to increasing the number of examiners on the Board of Bar Examiners from nine to 11 members

Rep. Lalonde of South Burlington, for the Committee on Judiciary, recommends the bill be amended as follows:

By striking out Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. EFFECTIVE DATE; IMPLEMENTATION

(a) This act shall take effect on passage.

(b) Notwithstanding 4 V.S.A. § 902, the Supreme Court is authorized to appoint two members to the Board of Bar Examiners on or after the effective date of this act.

(Committee Vote: 9-0-2)

Rep. Hooper of Montpelier, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Judiciary.

(Committee Vote: 10-0-2)

H. 718

An act relating to creation of the Restorative Justice Study Committee

Rep. Macaig of Williston, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Restorative justice has proven to be very helpful in reducing

offender recidivism, and, in many cases, has resulted in positive outcomes for victims.

(2) Victims thrive when they have options. Because the criminal justice system does not always meet victims' needs, restorative justice may provide options to improve victims' outcomes.

(3) Restorative justice as an alternative to incarceration of domestic and sexual assault offenders should be assessed to determine whether the necessary tools exist to ensure the safety of victims.

(4) Cultural shifts occur when communities are engaged in changing violent behaviors and when victims and perpetrators have access to options that support change and offer healing to families and communities. Allowing for restorative justice intervention when deemed safe and appropriate may achieve these goals.

Sec. 2. RESTORATIVE JUSTICE STUDY COMMITTEE

(a) Creation. There is created the Restorative Justice Study Committee for the purpose of conducting a comprehensive examination of whether there is a role for restorative justice principles and processes in domestic and sexual violence and stalking cases.

(b) Membership. The Committee shall be composed of the following members:

(1) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(2) an executive director of a dual domestic and sexual violence Network Member Program or designee, appointed by the Executive Director of the Vermont Network Against Domestic and Sexual Violence;

(3) an executive director of a sexual violence Network Member Program or designee, appointed by the Executive Director of the Vermont Network Against Domestic and Sexual Violence;

(4) the Executive Director of the Vermont Center for Crime Victim Services or designee;

(5) a representative of the Vermont Association of Court Diversion Programs;

(6) a representative of a Vermont community justice program;

(7) a prosecutor who handles, in whole or in part, domestic violence, sexual violence, and stalking cases, appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;

(8) the Executive Director of Vermonters for Criminal Justice Reform or designee;

(9) three representatives of organizations serving marginalized Vermonters, appointed by the Vermont Network Against Domestic and Sexual Violence;

(10) a representative of the Vermont Abenaki community, appointed by the Governor;

(11) the Executive Director of the Discussing Intimate Partner Violence and Accessing Support (DIVAS) Program for incarcerated women;

(12) the Coordinator of the Vermont Domestic Violence Council;

(13) the Commissioner of Corrections or a designee familiar with community and restorative justice programs;

(14) a representative of the Office of the Defender General;

(15) the Court Diversion and Pretrial Services Director; and

(16) two victims of domestic and sexual violence or stalking appointed by the Vermont Network Against Domestic and Sexual Violence.

(c) Powers and duties. The Committee shall study whether restorative justice can be an effective process for holding perpetrators of domestic and sexual violence and stalking accountable, while preventing future crime and keeping victims and the greater community safe. In deciding whether restorative justice can be suitable for each subset of cases, the Committee shall study the following:

(1) the development of specialized processes to ensure the safety, confidentiality, and privacy of victims;

(2) the nature of different offenses such as domestic violence, sexual violence, and stalking, including the level of harm caused by or violence involved in the offenses;

(3) the appropriateness of restorative justice in relation to the offense;

(4) a review of the potential power imbalances between the people who are to take part in restorative justice for these offenses;

(5) ways to protect the physical and psychological safety of anyone who is to take part in restorative justice for these offenses;

(6) training opportunities related to intake-level staff in domestic and sexual violence and stalking;

(7) community collaboration opportunities in the implementation of statewide protocols among restorative justice programs and local domestic and

sexual violence organizations, prosecutors, corrections, and organizations that represent marginalized Vermonters;

(8) the importance of victims' input in the development of any restorative justice process related to domestic and sexual violence and stalking cases;

(9) opportunities for a victim to participate in a restorative justice process, which may include alternatives to face-to-face meetings with an offender;

(10) risk-assessment tools that can assess perpetrators for risk prior to acceptance of referral;

(11) any necessary data collection to provide the opportunity for ongoing improvement of victim-centered response; and

(12) resources required to provide adequate trainings, ensure needed data gathering, support collaborative information sharing, and sustain relevant expertise at restorative justice programs.

(d) Assistance. The Vermont Network Against Domestic and Sexual Violence shall convene the first meeting of the Committee and provide support services.

(e) Reports. On or before December 1, 2018, the Vermont Network Against Domestic and Sexual Violence, on behalf of the Committee, shall submit an interim written report to the House Committee on Corrections and Institutions and to the House and Senate Committees on Judiciary. On or before July 1, 2019, the Vermont Network Against Domestic and Sexual Violence, on behalf of the Committee, shall submit a final report to the House Committee on Corrections and Institutions and to the House and Senate Committees on Judiciary.

(f) Meetings.

(1) The Vermont Network Against Domestic and Sexual Violence shall convene the meetings of the Committee, the first one to occur on or before August 1, 2018.

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

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

(4) The Committee shall cease to exist on July 1, 2019.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 10-0-1)

Rep. Hooper of Montpelier, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Corrections and Institutions and when further amended as follows:

In Sec. 2 as follows:

First: In subdivision (f)(4), after the word “shall”, by inserting “meet not more than ten times, and”

Second: By adding a new subsection (g) to read as follows:

(g) Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than ten meetings except that:

(1) Compensation and reimbursement for the two victims of domestic and sexual violence or stalking appointed by the Vermont Network Against Domestic and Sexual Violence shall be paid by the Vermont Network Against Domestic and Sexual Violence.

(2) Compensation and reimbursement for the representative of the Vermont Abenaki community, appointed by the Governor, shall be paid by the General Assembly.

(Committee Vote: 10-0-1)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 901

An act relating to health information technology and health information exchange.

(Rep. Jickling of Randolph will speak for the Committee on Health Care.)

Favorable with Amendment

H. 614

An act relating to the sale and use of fireworks

Rep. Read of Fayston, for the Committee on General; Housing and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 3132 is amended to read:

§ 3132. PROHIBITIONS; PERMITS

(a) Except as provided in this section, it shall be unlawful for any person, firm, co-partnership, or corporation to do any of the following:

(1) ~~Offer~~ offer for sale, expose for sale, sell at retail or wholesale, or possess fireworks unless the person has been issued a permit by both the U.S. Bureau of Alcohol, Tobacco, and Firearms and the municipality in which the person offers for sale and stores the fireworks;

(2) ~~Use, possess, use~~ or explode any fireworks unless the person has been issued a permit to display fireworks pursuant to subsection (c) of this section;

(3) ~~Transport fireworks except in interstate commerce.~~ [Repealed.]

(4) ~~Offer~~ offer for sale or sell ~~hand-held~~ handheld sparklers as described in subdivision 3131(1) of this title to a minor;

(5) ~~Offer~~ offer for sale or sell sparklers that are not in compliance with ~~the United States~~ U.S. Consumer Product Safety Commission regulations; or

(6) ~~Purchase~~ purchase fireworks.

(b) ~~The state fire marshal~~ State Fire Marshal shall have power to adopt reasonable rules ~~and regulations~~ for granting permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals.

(c) Any display for which a permit is issued shall be handled by a competent operator to be approved by the chiefs of police and fire departments of the municipality in which the display is to be held and shall be of a character, and so located, discharged, or fired as, in the opinion of the chief of the fire department, or in a municipality with no fire department, the selectboard, after proper inspection, shall not be hazardous to property or endanger any person or persons.

(d) Application for permits shall be made to the chief of the fire department, or in municipalities with no fire department, the selectboard, in writing, at least 15 days in advance of the date of the display. After the permit has been granted, sales, ~~possessions,~~ use, and distribution of fireworks for the display shall be lawful for that purpose only. No permit granted under this section shall be transferable.

(e) A person who sells fireworks at retail shall provide to the purchaser at the time of sale information regarding:

(1) the requirement that a permit must be obtained for the use or explosion of fireworks; and

(2) the purchaser's obligation to comply with any municipal ordinance

regulating use of fireworks.

(f)(1) No person shall explode fireworks after 10:00 p.m.

(2) A person who violates subdivision (1) of this subsection shall be assessed a civil penalty of not more than \$200.00.

(3) Subdivision (1) of this subsection shall not apply:

(A) on the following dates: July 3, July 4, December 31, and January 1;

(B) to uses permitted by section 3133 of this title; or

(C) if the use is permitted by a municipal ordinance.

Sec. 2. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(28) Violations of 20 V.S.A. § 3132(f), relating to the explosion of fireworks after 10:00 p.m.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 9-0-2)

H. 700

An act relating to the Open Meeting Law and meeting minutes

Rep. Gardner of Richmond, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 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, excluding any day classified as a holiday under section 371 of this title, from the date of any meeting. Meeting minutes shall be posted ~~no~~ not later than five calendar days, excluding any day classified as a holiday under section 371 of this title, 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 for draft minutes that have been

substituted with updated minutes, 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. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 9-0-2)

H. 727

An act relating to the admissibility of a child's hearsay statements in a proceeding before the Human Services Board

Rep. Rachelson of Burlington, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 4916b is amended to read:

§ 4916b. HUMAN SERVICES BOARD HEARING

(a) Within 30 days ~~of~~ after the date on which the administrative reviewer mailed notice of placement of a report on the Registry, the person who is the subject of the substantiation may apply in writing to the Human Services Board for relief. The Board shall hold a fair hearing pursuant to 3 V.S.A. § 3091. When the Department receives notice of the appeal, it shall make note in the Registry record that the substantiation has been appealed to the Board.

(b)(1) The Board shall hold a hearing within 60 days ~~of~~ after the receipt of the request for a hearing and shall issue a decision within 30 days ~~of~~ after the hearing.

(2) Priority shall be given to appeals in which there are immediate employment consequences for the person appealing the decision.

(3) ~~Rule 804a of the Vermont Rules of Evidence (V.R.E.) shall apply to hearings held under this subsection only as follows:~~

~~(A) V.R.E. 804a(a)(1) and (4) shall apply.~~

~~(B) V.R.E. 804a(a)(2) shall apply, except that any deposition or testimony given under oath at another proceeding shall be admissible evidence in a hearing held under this subsection.~~

~~(C) V.R.E. 804a(a)(3) shall apply to hearings under this subsection unless the hearing officer determines, based on a preponderance of the evidence, that requiring the child to testify will present a substantial risk of trauma to the child.~~

~~(D) V.R.E. 804a(b) shall not apply A child under 18 years of age~~

who is alleged to have been abused or neglected shall not be required to testify or give evidence at any hearing held under this subchapter. Article VIII of the Vermont Rules of Evidence (Hearsay) shall not apply to any hearing held pursuant to this subchapter with respect to statements made by a child under 18 years of age who is alleged to have been abused or neglected. Evidence shall be admissible if the time, content, and circumstances of the statements provide substantial indicia of trustworthiness.

(4) Convictions and adjudications ~~which~~ that arose out of the same incident of abuse or neglect for which the person was substantiated, whether by verdict, by judgment, or by a plea of any type, including a plea resulting in a deferred sentence, shall be competent evidence in a hearing held under this subchapter.

(c) A hearing may be stayed upon request of the petitioner if there is a related case pending in the Criminal or Family Division of the Superior Court ~~which~~ that arose out of the same incident of abuse or neglect for which the person was substantiated.

(d) If no review by the Board is requested, the Department's decision in the case shall be final, and the person shall have no further right for review under this section. The Board may grant a waiver and permit such a review upon good cause shown.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee Vote: 10-0-1)

H. 731

An act relating to the classification of employees

Rep. Hill of Wolcott, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Workers' Compensation; Protection Against Retaliation * * *

Sec. 1. 21 V.S.A. § 710 is amended to read:

§ 710. UNLAWFUL DISCRIMINATION

(a) No person, firm, or corporation shall refuse to employ any applicant for employment because ~~such~~ the applicant asserted a claim for workers' compensation benefits under this chapter or under the law of any state or of the United States. Nothing in this section shall require a person to employ an applicant who does not meet the qualifications of the position sought.

(b) No person shall discharge or discriminate against an employee from employment because ~~such~~ the employee asserted or attempted to assert a claim for benefits under this chapter or under the law of any state or of the United States.

(c) The Department shall not include in any publication or public report the name or contact information of any individual who has alleged that an employer has made a false statement or misclassified any employees, unless it is required by law or necessary to enable enforcement of this chapter.

(d) An employer shall not retaliate or take any other negative action against an individual because the employer knows or suspects that the individual has filed a complaint ~~with the Department or other authority~~, or reported a violation of this chapter, or has testified, assisted, or cooperated in any manner with the Department or other appropriate governmental agency or department in an investigation of misclassification, discrimination, or other violation of this chapter.

(e) The Attorney General or a State's Attorney may enforce the provisions of this section by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458-2461 as though ~~discrimination under a violation of~~ this section were an unfair act in commerce.

(f) The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this ~~subchapter~~ section.

* * * Workers' Compensation Administration Fund * * *

Sec. 2. WORKERS' COMPENSATION RATE OF CONTRIBUTION

For fiscal year 2019, after consideration of the formula in 21 V.S.A. § 711(b) and historical rate trends, the General Assembly has established that the rate of contribution for the direct calendar year premium for workers' compensation insurance shall remain at the rate of 1.4 percent. The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

* * * Discontinuance of Workers' Compensation Benefits * * *

Sec. 3. 2014 Acts and Resolves No. 199, Sec. 54a is amended to read:

Sec. 54a. REPEAL

21 V.S.A. § 643a shall be repealed on July 1, ~~2018~~ 2023.

Sec. 4. 2014 Acts and Resolves No. 199, Sec. 69 is amended to read:

Sec. 69. EFFECTIVE DATES

* * *

(b) Sec. 54b (reinstatement of current law governing discontinuance of workers' compensation insurance benefits) shall take effect on July 1, ~~2018~~ 2023.

* * *

* * * Vermont Occupational Safety and Health Act * * *

Sec. 5. 21 V.S.A. § 225 is amended to read:

§ 225. CITATIONS

(a)(1) If, upon inspection or investigation, the Commissioner or the Director, or the agent of either of them, finds that an employer has violated a requirement of the VOSHA Code, the Commissioner shall with reasonable promptness issue a citation to the employer and serve it on the employer by certified mail or in the same manner as a summons to the Superior Court. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provisions of the statute, standard, rule, or order alleged to have been violated, as well as the penalty, if any, proposed to be assessed pursuant to section 210 of this title. In addition, the citation shall fix a reasonable time for the abatement of the violation.

(2) By rule, the Commissioner shall ~~prescribe~~ adopt procedures for issuance of a notice in lieu of a citation with respect to ~~de minimus~~ de minimis violations ~~which~~ that have no direct or immediate relationship to safety or health, and for hearing interested parties before a civil penalty is assessed.

(b) Each citation issued under this section, or a copy or copies ~~thereof~~ of the citation, shall be prominently posted, as prescribed in rules ~~promulgated~~ adopted by the Commissioner, at or near each place a violation referred to in the citation occurred or existed.

* * *

Sec. 6. 21 V.S.A. § 226 is amended to read:

§ 226. ENFORCEMENT

(a)(1) ~~After issuing a citation under section 225 of this title, the Commissioner shall notify the employer by certified mail or by service by an agent, of the penalty, if any, proposed to be assessed under section 210 of this title. The An employer shall have, within 20 days after personal service or receipt of the notice within which to a citation issued under section 225 of this~~

title, notify the Commissioner that he or she wishes to appeal the citation or proposed assessment of penalty, and if no notice is filed by .

(2) If an employer does not notify the Commissioner as provided in this subsection and an employee does not file a notice under subsection (c) of this section, the citation and assessment penalty, as proposed, shall be deemed a final order of the Review Board and not subject to review by any court or agency.

(b)(1)(A) If the Commissioner on inspection or investigation finds that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Review Board in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, or on the day the citation and assessment becomes final under subsection (a) of this section), the Commissioner shall notify the employer by certified mail of such the failure and of the penalty proposed to be assessed under section 210 of this title by reason of such the failure.

(B) The period to correct a violation shall begin to run:

(i) when a final order is entered by the Review Board in relation to review proceedings under this section that are initiated by an employer in good faith and not solely for delay or avoidance of penalties; or

(ii) on the day the citation and penalty become final under subsection (a) of this section.

(2) The employer shall have 20 days after the receipt of the notice within which to notify the Commissioner that he or she wishes to appeal the Commissioner's notification citation or the proposed assessment of penalty. If within 20 days from the receipt of the notification issued by the Commissioner, the employer fails to notify the Commissioner that he or she intends to appeal the notification or proposed assessment of penalty, the notification citation and assessment, as proposed, shall be deemed a final order of the Review Board and not subject to review by any court or agency.

(c) If an employer notifies the Commissioner that he or she intends to contest a citation issued under section 225 of this title or notification issued under subsection (a) or (b) of this section, or if, within 20 days of after the issuance of a citation issued under section 225 of this title, any employee or representative of employees files a notice with the Commissioner alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Commissioner shall immediately advise the Review Board of such the notification and the Review Board shall afford an opportunity for a

hearing. Unless ~~the~~ a notice is timely filed, the proposed penalty and, in appropriate cases, the ~~notification of the Commissioner citation~~ shall be deemed a final order of the Review Board not subject to review by any court or agency.

(d) After hearing an appeal, the Review Board shall ~~thereafter~~ issue an order based on findings of fact ~~affirming, modifying, or vacating that affirms, modifies, or vacates~~ the Commissioner's citation or proposed penalty, or both, or ~~directing provides~~ other appropriate relief, ~~and the~~. The order shall become final 30 days after its issuance unless judicial review is timely taken under section 227 of this title. The rules of procedure ~~prescribed~~ adopted by the Review Board shall provide affected employees or their representatives with an opportunity to participate as parties in ~~hearings~~ a hearing under this subsection.

* * * Effective Dates * * *

Sec. 7. EFFECTIVE DATES

- (a) This section and Secs. 3 and 4 shall take effect on passage.
- (b) The remaining sections shall take effect on July 1, 2018.

(Committee Vote: 10-0-1)

Rep. Baser of Bristol, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Commerce and Economic Development.

(Committee Vote: 11-0-0)

H. 836

An act relating to electronic court filings for relief from abuse orders

Rep. Colburn of Burlington, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

The General Assembly intends this act to address safety concerns that have arisen for court staff, victims, and victims' advocates when relief from abuse orders are sought after regular court hours. While recognizing limitations on law enforcement resources, this act attempts to protect parties from having to meet in unprotected and often remote locations and increase access to the courts for victims by permitting relief from abuse orders to be obtained electronically in certain circumstances. Although there will be cases where filing electronically will be impracticable and may result in filings on the next business day, establishing an electronic filing process should expand victims'

ability to obtain relief from abuse orders when courts are closed while enhancing the safety of all parties involved.

Sec. 2. 15 V.S.A. § 1106 is amended to read:

§ 1106. PROCEDURE

(a) Except as otherwise specified in this chapter, proceedings commenced under this chapter shall be in accordance with the Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

(b)(1) ~~The court administrator~~ Court Administrator shall establish procedures to ~~insure~~ ensure access to relief after regular court hours, or on weekends and holidays. ~~The court administrator~~ Court Administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to ~~superior courts~~ Superior Courts. Law enforcement agencies shall assist in carrying out the intent of this section.

(2)(A) The court shall designate an authorized person to receive requests for ex parte temporary relief from abuse orders submitted after regular court hours pursuant to section 1104 of this title, including requests made by reliable electronic means according to the procedures in this subdivision.

(B) If a secure setting is not available for processing an ex parte temporary relief from abuse order submitted after regular court hours, or if the authorized person determines that electronic submission is appropriate under the circumstances, the authorized person shall inform the applicant that a complaint and affidavit may be submitted electronically.

(C) The affidavit shall be sworn to or affirmed by administration of the oath over the telephone to the applicant by the authorized person, and shall conclude with the following statement: "I declare under the penalty of perjury pursuant to the laws of the State of the Vermont that the foregoing is true and accurate." The authorized person shall note on the affidavit the date and time that the oath was administered .

(D) The authorized person shall communicate the contents of the complaint and affidavit to a judicial officer telephonically or by reliable electronic means. The judicial officer shall decide whether to grant or deny the complaint and issue the order solely on the basis of the contents of the affidavit or affidavits provided. The judicial officer shall communicate the decision to the authorized person, who shall communicate it to the applicant. If the order is issued, it shall be delivered to the appropriate law enforcement agency for service and to the holding station.

(c) ~~The office of the court administrator~~ Office of the Court Administrator

shall ensure that the ~~superior court~~ Superior Court has procedures in place so that the contents of orders and pendency of other proceedings can be known to all courts for cases in which an abuse prevention proceeding is related to a criminal proceeding.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

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

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?

S. 103

An act relating to the regulation of toxic substances and hazardous materials.

Pending Question: Shall the House concur in the Senate proposal of amendment to the House proposal of amendment??

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.