

# House Calendar

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Thursday, April 05, 2018

93rd DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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## TABLE OF CONTENTS

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**Page No.**

### **ACTION CALENDAR**

**Action Postponed Until April 5, 2018**

**Senate Proposal of Amendment**

<b>H. 611</b> Compensation for victims of crime.....	1328
<b>H. 836</b> Electronic court filings for relief from abuse orders.....	1328
Rep. Willhoit et al. Amendment.....	1329

### **NEW BUSINESS**

**Third Reading**

<b>H. 548</b> Limiting additional TIF districts.....	1329
--	------

**Favorable with Amendment**

<b>H. 482</b> Consumer protection.....	1329
Rep. Marcotte for Commerce and Economic Development	

**Favorable**

<b>S. 253</b> An act relating to Vermont's adoption of the Interstate Medical Licensure Compact.....	1336
Rep. Gage for Health Care	

**Senate Proposal of Amendment**

<b>H. 422</b> Removal of firearms from a person arrested or cited for domestic assault.....	1336
<b>H. 563</b> Repealing the crimes of vagrancy.....	1338
<b>H. 771</b> The Vermont National Guard.....	1339
Rep. Gonzalez et al. Amendment.....	1342

### **NOTICE CALENDAR**

**Favorable with Amendment**

<b>H. 925</b> Approval of amendments to the charter of the City of Barre.....	1346
Rep. Lewis for Government Operations	
Rep. Wright for Ways and Means.....	1346

**Senate Proposal of Amendment**

**H. 271** Administration of the Supplemental Nutrition Assistance Program 1347

**Ordered to Lie**

**H. 167** Alternative approaches to addressing low-level illicit drug use..... 1347

**H. 219** The Vermont spaying and neutering program..... 1347

**S. 267** An act relating to timing of a decree nisi in a divorce proceeding.. 1347

**Consent Calendar**

**H.C.R. 302** Congratulating Bennington Fire Department’s Eagle Hose Company No.4 President Joseph A. Wassick for his 60-year tenure as a company member..... 1348

**H.C.R. 303** Congratulating the 2018 Norwich University Cadets NCAA Division III championship women’s ice hockey team..... 1348

**H.C.R. 304** Commemorating the 125th anniversary of the legislative incorporation of the Village of Essex Junction..... 1348

**H.C.R. 305** Designating Thursday, March 29, 2018 as Alzheimer’s Awareness and Advocacy Day..... 1348

**H.C.R. 306** Congratulating the 2018 Rutland High School Raiders Division I championship boys’ basketball team..... 1348

**H.C.R. 307** Congratulating the 2018 Sharon Academy Phoenix Division IV championship boys’ basketball team..... 1348

**H.C.R. 308** Congratulating the 2018 St. Johnsbury Academy Hilltoppers Division I championship girls’ basketball team..... 1348

**H.C.R. 309** Designating Tuesday, April 3, 2018 as National Service Day in Vermont..... 1348

**H.C.R. 310** Designating April 2018 as the Month of the Military Child in Vermont..... 1348

**H.C.R. 311** Commemorating the 150th anniversary of the founding of the Benevolent and Protective Order of Elks..... 1348

**H.C.R. 312** Congratulating Amy Rounds of Westminster on her selection as the 2018 Vermont State Mother of the Year..... 1349

**H.C.R. 313** Honoring Jeannine Griffin of Brandon as an educator and as a woman active in her faith community..... 1349

**H.C.R. 314** Congratulating the 2018 Essex High School Hornets Division I championship boys’ ice hockey team..... 1349

**H.C.R. 315** In memory of Antonio B. Pomerleau of Burlington..... 1349

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Action Postponed Until April 5, 2018**

**Senate Proposal of Amendment**

**H. 611**

An act relating to compensation for victims of crime

The Senate proposes to the House to amend the bill as follows:

In Sec. 1, 13 V.S.A. § 5357, by amending the last sentence to read as follows:

Such subrogation rights shall be against ~~the perpetrator of the crime or any~~ person liable for the pecuniary loss.

(For text see House Journal January 30, 2018 )

**H. 836**

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

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

This act permits relief from abuse orders to be obtained electronically in certain circumstances when courts are closed while enhancing the safety of all parties involved.

Second: In Sec. 2, 15 V.S.A. § 1106, by striking out subdivision (b)(2)(C) and inserting in lieu thereof a new subdivision (b)(2)(C) to read as follows:

(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 Vermont that the foregoing is true and accurate. I understand that the penalty for perjury is imprisonment of not more than 15 years or a fine of not more than \$10,000.00, or both." The authorized person shall note on the affidavit the date and time that the oath was administered.

(For text see House Journal February 28, 2018 )

**Amendment to be offered by Reps. Willhoit of St. Johnsbury and Grad of Moretown to H. 836**

That the House concur with the Senate proposal of amendment with further proposal of amendment by adding a new Sec. 3 to read as follows:

Sec. 3. ORDERS AGAINST STALKING OR SEXUAL ASSAULT;  
REPORT FROM OFFICE OF COURT ADMINISTRATOR

On or before March 1, 2019, the Office of the Court Administrator shall report to the House and Senate Committees on Judiciary regarding the feasibility of ensuring that orders against stalking or sexual assault issued under 12 V.S.A. chapter 178 are available after regular court hours and on weekends and holidays. The report required by this section may be provided through oral testimony.

and by renumbering the remaining section to be numerically correct.

**NEW BUSINESS**

**Third Reading**

**H. 548**

An act relating to limiting additional TIF districts

**Favorable with Amendment**

**H. 482**

An act relating to consumer protection

**Rep. Marcotte of Coventry**, 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:

Sec. 1. 9 V.S.A. § 41a is amended to read:

§ 41a. LEGAL RATES

(a) Except as specifically provided by law, the rate of interest or the sum allowed for forbearance or use of money shall be 12 percent per annum computed by the actuarial method.

(b) The rate of interest or the sum allowed:

\* \* \*

(10) Interest on a judgment against a debtor in default on credit card debt incurred for personal, family, or household purposes shall accrue at the rate of 12 percent per annum using simple interest, unless a court suspends or reduces the accrual of interest pursuant to 12 V.S.A. § 2903a.

\* \* \*

Sec. 2. 12 V.S.A. chapter 113 is amended to read:

CHAPTER 113. JUDGMENT LIEN JUDGMENTS AND JUDGMENT  
LIENS

\* \* \*

§ 2903. DURATION AND EFFECTIVENESS

\* \* \*

(c) Interest Unless a court suspends or reduces the accrual of interest pursuant to section 2903a of this title, interest on a judgment lien shall accrue at the rate of 12 percent per annum using simple interest.

(d) If a judgment lien is not satisfied within 30 days of recording, it may be foreclosed and redeemed as provided in this title and V.R.C.P. Rule 80.1 of the Vermont Rules of Civil Procedure. Unless the court finds that as of the date of foreclosure the amount of the outstanding debt exceeds the value of the real property being foreclosed, section 4531 of this title shall apply to foreclosure of a judgment lien.

§ 2903a. ACCRUAL OF POSTJUDGMENT INTEREST ON CREDIT  
CARD DEBT; SUSPENSION; REDUCTION; REINSTATEMENT

(a) Upon or after entering a judgment against a debtor in default on credit card debt incurred for personal, family, or household purposes, a court may suspend or reduce the accrual of interest on the judgment if it finds:

(1) the judgment debtor's income and assets are exempt from collection; or

(2) based on his or her current income, assets, and expenses, the judgment debtor does not have more financial resources available than what is reasonably necessary to support the debtor and his or her dependents.

(b) To request suspension or reduction of interest on a judgment, the debtor shall submit to the court a motion to suspend or reduce interest that includes:

(1) a completed financial disclosure, on a form adopted by the Vermont Judiciary; and

(2) any additional documentation the court prescribes.

(c) If the court approves the request, it:

(1) shall provide in its order that the suspension or reduction of interest is based on the judgment debtor's current income, assets, and expenses; and

(2) may require the judgment debtor periodically to provide the judgment creditor with an updated financial disclosure form.

(d) The court may revise its order upon a motion by the judgment creditor or judgment debtor to reinstate, reduce further, or suspend the accrual of interest based on a substantial change in the judgment debtor's income, assets, or expenses.

\* \* \*

Sec. 3. 9 V.S.A. chapter 63, subchapter 9 is added to read:

Subchapter 9. Debt Collectors and Debt Collection

§ 2491. DEFINITIONS

As used in this subchapter:

(1) “Credit card debtor” means a consumer who is in default on credit card debt incurred for personal, family, or household purposes.

(2) “Debt collector” means a person who engages, or directly or indirectly aids, in collecting a credit card debt incurred for personal, family, or household purposes, and includes a debt buyer.

§ 2491a. ENFORCEMENT

A person who violates a provision of this subchapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

§ 2491b. CREDIT CARD DEBT COLLECTION; NOTICES TO CONSUMER

(a) Notice prior to initiating action. Prior to initiating an action to obtain a judgment against a credit card debtor, a debt collector shall deliver to the credit card debtor:

(1) a claim of exemption form adopted by the Vermont Judiciary; and

(2) a written notice that contains:

(A) the amount of the debt;

(B) the name of the person to whom the debt is owed;

(C) the name of the original creditor, the last four digits of the account, and the alleged date of the last payment if any;

(D) a statement that, if the credit card debtor indicates in writing that his or her current income and assets are exempt from collection, the debt collector will review the information in deciding whether and how to proceed in collecting the debt.

(b) Time for delivering notice prior to initiating action. A debt collector shall deliver the notice required in subsection (a) of this section not more than 90 days and not less than 30 days before initiating an action to obtain a judgment against a credit card debtor.

(c) Notice by assignee prior to filing a motion to collect on a judgment against credit card debtor. Prior to filing a motion to collect on a judgment against a credit card debtor, an assignee of the judgment shall deliver to the judgment debtor:

(1) a copy of the judgment against the credit card debtor;

(2) the date and parties to each assignment of the judgment;

(3) a claim of exemption form adopted by the Vermont Judiciary; and

(4) a written statement that, if the credit card debtor indicates in writing that his or her current income and assets are exempt from collection, the assignee will review the information in deciding whether and how to proceed in collecting on the judgment.

(d) Time for delivering notice by assignee prior to filing a motion to collect

on a judgment against credit card debtor. The assignee of a judgment shall deliver the notice required in subsection (c) of this section not more than 90 days and not less than 30 days before filing a motion to collect on the judgment.

§ 2491c. DEBT COLLECTION AFTER STATUTE OF LIMITATIONS  
EXPIRED; LIMITATIONS

(a)(1) A debt collector shall not initiate a civil action to collect a debt from a credit card debtor when the debt collector knows or reasonably should know that the statute of limitations provided in 12 V.S.A. § 511 has expired.

(2) Notwithstanding any other provision of law, when the limitations period provided in 12 V.S.A. § 511 expires, any subsequent payment toward, written or oral affirmation of, or other activity on the debt does not revive or extend the limitations period.

(b) After the statute of limitations provided in 12 V.S.A. § 511 has expired, a debt collector may only communicate with a credit card debtor concerning the debt after providing written or verbal notice that the credit card debtor has the right to request that the debt collector cease all communications with the credit card debtor concerning the debt and providing one of the following disclosures:

(1) If the debt is not past the date for obsolescence set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681c(a):

“The law limits how long you can be sued on a debt. Because of the age of your debt, we cannot sue you for it. However, if you do not pay the debt, [creditor or debt collector name] may [continue to] report it to the credit reporting agencies as unpaid for as long as the law permits this reporting.”

(2) If the debt is past the date for obsolescence set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681c(a):

“The law limits how long you can be sued on a debt. Because of the age of your debt, [creditor or debt collector name] cannot sue you for it and will not report it to any credit reporting agency.”

Sec. 4. 12 V.S.A. § 2732 is amended to read:

**§ 2732. GOODS, EFFECTS, AND CREDITS HELD BY THIRD PERSON**

On request of the judgment creditor, the clerk of the court granting judgment shall issue ~~to the officer holding the execution~~ a summons as trustee to a third person having in his or her hands goods, effects, or credits, other than earnings, of the debtor that have not previously been attached on trustee process in connection with the action. The summons shall be in such form as the Supreme Court may by rule provide for a summons to a trustee in connection with the commencement of an action and shall state the date and amount of the judgment. The summons shall be served by the officer upon the trustee in like manner and with the same effect as mesne process. A copy of the summons shall be served upon the judgment debtor with the officer's

endorsement thereon of the date of service upon the trustee. After service of the summons, proceedings shall be had as provided by law and by rule promulgated by the Supreme Court for trustee process in connection with the commencement of an action.

Sec. 5. 12 V.S.A. § 3170 is amended to read:

§ 3170. EXEMPTIONS; ISSUANCE OF ORDER

(a) No order approving the issuance of trustee process against earnings shall be entered against a judgment debtor who was, within the two-month period preceding the hearing provided in section 3169 of this title, a recipient of assistance from the Vermont Department for Children and Families or the Department of Vermont Health Access. The judgment debtor must establish this exemption at the time of hearing.

(b) The earnings of a judgment debtor shall be exempt as follows:

(1) 75 percent of the debtor's weekly disposable earnings, or 30 times the federal minimum hourly wage, whichever is greater; or

(2) if the judgment debt arose from a consumer credit transaction, as that term is defined by 15 U.S.C. § 1602 and implementing regulations of the Federal Reserve Board, 85 percent of the debtor's weekly disposable earnings, or 40 times the federal minimum hourly wage, whichever is greater; or

(3) if the court finds that the weekly expenses reasonably incurred by the debtor for his or her maintenance and that of dependents exceed the amounts exempted by subdivisions (1) and (2) of this subsection, such greater amount of earnings as the court shall order.

\* \* \*

Sec. 6. 12 V.S.A. § 3173 is added to read:

§ 3173. TRUSTEE PROCESS AGAINST JUDGMENT DEBTOR'S  
BANK ACCOUNTS; PROCEDURE

(a)(1) A judgment creditor may, pursuant to this section, obtain trustee process against a judgment debtor's accounts or funds in the possession of a bank or other financial institution to enforce a money judgment in a civil action.

(2) Notwithstanding section 2732 of this title or any other provision of law, a judgment debtor's accounts or funds in the possession of a bank or other financial institution shall not be attached, be subject to trustee process, or be subject to execution by a judgment creditor unless the requirements of this section are satisfied.

(3) Nothing in this section shall prohibit a financial institution from exercising a contractual right of setoff against a judgment debtor's deposit accounts with the financial institution.

(b)(1) A judgment creditor may file an ex parte motion for trustee process against a judgment debtor's accounts or funds in the possession of a bank or



other financial institution describing in detail the grounds for the motion, the amount alleged to be unpaid, including estimated costs anticipated to be expended for court fees and service on parties in connection with the trustee process procedure.

(2) The judgment creditor shall prepare a summons and a disclosure for the trustee, and a claim of exemption for the judgment debtor, on forms provided by the court.

(c)(1) Upon receipt of a motion for trustee process filed under this section when a judgment is final and has not been satisfied, the Superior clerk is authorized to issue one or more summonses to any trustee financial institution specified by the judgment creditor that possesses accounts or funds belonging to the judgment debtor.

(2) If the judgment creditor requests issuance of more than one summons, the judgment creditor shall specify, and the clerk shall include in the summons, which financial institution shall not freeze the amounts exempted by subdivision 2740(15) of this title.

(3) The clerk shall issue a notice of hearing concurrently with the summons and shall set the matter for hearing not sooner than 30 days after issuing the notice and summons.

(4) A summons issued pursuant to this subsection shall contain instructions to the trustee financial institution directing it not to freeze any funds of the judgment debtor that, based on deposit or other information kept by the trustee financial institution, are protected under 31 C.F.R. part 212 or exempt under subdivision 2740(15) of this title.

(d)(1) The judgment creditor shall serve on the trustee financial institution and the judgment debtor pursuant to Rule 4 of the Vermont Rules of Civil Procedure, unless the judgment debtor files an appearance pursuant to Rule 5 of the Vermont Rules of Civil Procedure after the motion for trustee process is filed:

(A) the motion for trustee process;

(B) the summons and notice of hearing issued by the clerk pursuant to subdivisions (c)(1) and (3) of this section;

(C) a claim of exemptions form approved by the Court Administrator that permits the judgment debtor to identify any of the debtor's funds in the possession of the trustee financial institution that may be exempt from execution under section 2740 of this title; and

(D) a disclosure form for the trustee.

(2) If the judgment creditor does not provide proof of service on the judgment debtor by the time of the hearing and the judgment debtor does not appear at the hearing, the court shall issue an order denying the motion for trustee process and directing the trustee financial institution to release all of the judgment debtor's held funds to the judgment debtor, unless the hearing is

continued for good cause.

(e) Upon receipt of a summons served pursuant to subsection (d) of this section, a trustee financial institution, based on the instructions contained in the summons and deposit or other information kept by the institution:

(1) shall not freeze any funds in its possession belonging to the judgment debtor that are protected under 31 C.F.R. part 212 or that are exempt under subdivision 2740(15) of this title;

(2) shall freeze any funds up to the amount owed as provided in the summons to the trustee that are not protected under 31 C.F.R. part 212 and that are not exempt under subdivision 2740(15) of this title; and

(3) shall return the disclosure form to the court and to the parties within 10 days.

(f)(1) A judgment debtor may request an expedited hearing to determine a claim of exemption.

(2) The judgment debtor shall:

(A) submit the request in writing; and

(B) send a copy of the request to the court, to the judgment creditor, and to the trustee financial institution.

(3) The court shall give notice to the parties and hold the hearing within three business days after the judgment debtor makes the request.

(4) If the judgment debtor requests an expedited hearing, he or she is deemed to have entered an appearance and waived any further service.

(g) At the hearing on the motion for trustee process or motion for expedited hearing, the court shall consider the disclosure form from the trustee and the testimony and affidavits offered by any party, provided that an affiant is available to testify in person or by telephone. The court shall issue an order granting or denying the motion for trustee process, which shall:

(1) state the amount of the judgment unpaid, including costs incurred since filing the motion;

(2) state the rate of postjudgment interest due under 9 V.S.A. § 41a(b)(10);

(3) identify any funds of the judgment debtor in the possession of the trustee financial institution that are exempt from execution under section 2740 of this title and order release of those funds to the judgment debtor;

(4) review any proposed settlement between the judgment creditor and the judgment debtor and make a finding as to whether any waiver of exemptions was knowing; and

(5) identify the amount of funds in the possession of the trustee financial institution that shall be released to the judgment creditor.

(h) A trustee financial institution shall not be subject to criminal or civil liability for any actions taken in reliance upon the provisions of this section.

Sec. 7. IMPLEMENTATION; REPORT

(a) On or before January 15, 2020, the Attorney General, in consultation with the Judicial Branch, representatives of creditors and debtors, and national nonprofit organizations representing the receivables industry, shall submit to the House and Senate Committees on Judiciary, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs a report that addresses:

(1) the implementation, outcomes, and effectiveness of this act;

(2) whether to expand the applicability of the provisions of this act beyond credit card debt; and

(3) any recommendations for further legislative action related to this act.

(b) On or before January 15, 2019, the Attorney General, in consultation with the Judicial Branch and representatives of creditors and debtors, shall submit to the House and Senate Committees on Judiciary, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs a report that addresses the potential costs and benefits of requiring a court to acquire and review a debtor's credit report when considering a request to reduce or suspend the accrual of postjudgment interest, who should be responsible for producing the credit report, and how to ensure consumer privacy if a credit report is used for those purposes in a court action.

Sec. 8. EFFECTIVE DATE

This act shall take effect on October 1, 2018.

and that after passage the title of the bill be amended to read: "An act relating to consumer protection, credit card debt, and trustee process"

**( Committee Vote: 7-2-2)**

### **Favorable**

#### **S. 253**

An act relating to Vermont's adoption of the Interstate Medical Licensure Compact

**Rep. Gage of Rutland City**, for the Committee on Health Care, recommends that the bill ought to pass in concurrence.

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

**(For text see Senate Journal March 21, 2018 )**

### **Senate Proposal of Amendment**

#### **H. 422**

An act relating to removal of firearms from a person arrested or cited for domestic assault

The Senate proposes to the House to amend the bill by striking all after the

enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 1048 is added to read:

§ 1048. REMOVAL OF FIREARMS

(a)(1) When a law enforcement officer arrests, cites, or obtains an arrest warrant for a person for domestic assault in violation of this subchapter, the officer may remove any firearm:

(A) that is contraband or will be used as evidence in a criminal proceeding; or

(B) that is in the immediate possession or control of the person being arrested or cited, in plain view of the officer at the scene of the alleged domestic assault, or discovered during a lawful search, including under exigent circumstances, if the removal is necessary for the protection of the officer, the alleged victim, the person being arrested or cited, or a family member of the alleged victim or of the person being arrested or cited.

(2) As used in this section, “family member” means any family member, a household member as defined in 15 V.S.A. § 1102(1), or a child of a family member or household member.

(b) A person cited for domestic assault shall be arraigned on the next business day after the citation is issued except for good cause shown. Unless the person is held without bail, the State’s Attorney shall request conditions of release for a person cited or lodged for domestic assault.

(c)(1) At arraignment, the court shall issue a written order releasing any firearms removed pursuant to subdivision (a)(1)(B) of this section unless:

(A) the firearm is being or may be used as evidence in a pending criminal or civil proceeding;

(B) a court orders relinquishment of the firearm pursuant to 15 V.S.A. chapter 21 (abuse prevention) or any other provision of law consistent with 18 U.S.C. § 922(g)(8), in which case the weapon shall be stored pursuant to 20 V.S.A. § 2307;

(C) the person requesting the return is prohibited by law from possessing a firearm; or

(D) the court imposes a condition requiring the defendant not to possess a firearm.

(2) If the court under subdivision (1) of this subsection orders the release of a firearm removed under subdivision (a)(1)(B) of this section, the law enforcement agency in possession of the firearm shall make it available to the owner within three business days after receipt of the written order and in a

manner consistent with federal law.

(d)(1) A law enforcement officer shall not be subject to civil or criminal liability for acts or omissions made in reliance on the provisions of this section. This section shall not be construed to create a legal duty to a victim or to any other person, and no action may be filed based upon a claim that a law enforcement officer removed or did not remove a firearm as authorized by this section.

(2) A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of firearms removed, stored, or transported pursuant to this section. This subdivision shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.

(3) This section shall not be construed to limit the authority of a law enforcement agency to take any necessary and appropriate action, including disciplinary action, regarding an officer's performance in connection with this section.

(e) This section shall not be construed:

(1) to prevent a court from prohibiting a person from possessing firearms under any other provision of law;

(2) to prevent a law enforcement officer from searching for and seizing firearms under any other provision of law; or

(3) to authorize a warrantless search under any circumstances other than those permitted by this section.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on September 1, 2018.

(For text see House Journal March 21, 22, 2018 )

## **H. 563**

An act relating to repealing the crimes of vagrancy

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

## Sec. 1. FINDINGS

The General Assembly finds:

(1) At common law, a vagrant is someone who refuses to work or goes about begging. Throughout the 19th and 20th centuries, Vermont and most other states criminalized this status. An 1864 Vermont statute focused on a "person, who, having his face painted, discolored, covered, or concealed, or

being otherwise disguised in a manner calculated to prevent him from being identified and his true character discovered.” Other versions of the law targeted persons who were “unable to give a good account of themselves.”

(2) Vermont’s vagrancy laws are very likely unconstitutional. Similar laws in other states have been struck down by the courts for vagueness and overbreadth, for failure to provide fair notice of what conduct is forbidden, and for encouraging arbitrary and erratic arrests.

(3) Vermont’s vagrancy laws criminalize a person’s status as someone who “roves from place to place and [lives] without visible means of support...” Any conduct prohibited in the vagrancy chapter is covered by other statutes in current law such as disorderly conduct, trespass, and assault.

#### Sec. 2. REPEAL

13 V.S.A. chapter 83 (Vagrants) is repealed.

#### Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(For text see House Journal January 23, 2018 )

### **H. 771**

An act relating to the Vermont National Guard

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 428 is added to read:

#### § 428. RECRUITMENT, RETENTION, AND PROMOTION OF WOMEN; REPORT

(a) Notwithstanding 2 V.S.A. § 20(d), the Adjutant and Inspector General shall make a report to the General Assembly on or before January 15, 2019 and annually thereafter regarding the Vermont National Guard’s efforts to recruit and retain women and to increase the number of women serving as senior noncommissioned officers, warrant officers, and senior commissioned officers.

(b) The report shall contain:

(1) the numbers of men and women serving in the Vermont National Guard;

(2) the numbers, by rank, of men and women serving in the Vermont National Guard as senior noncommissioned officers, E-7 and above; as warrant officers, W-1 to W-5; and as senior commissioned officers, O-4 and above;

(3) the change during the previous five years in the numbers of men and women serving in the Vermont National Guard as senior noncommissioned officers, E-7 and above; as warrant officers, W-1 to W-5; and as senior commissioned officers, O-4 and above;

(4) the numbers of men and women recruited to serve in the Vermont National Guard during the past calendar year;

(5) the numbers of men and women recruited or promoted to serve in the Vermont National Guard as senior noncommissioned officers, E-7 and above, during the past calendar year;

(6) the numbers of men and women recruited or promoted to serve in the Vermont National Guard as warrant officers, W-1 to W-5, during the past calendar year;

(7) the numbers of men and women recruited or promoted to serve in the Vermont National Guard as senior commissioned officers, O-4 and above, during the past calendar year;

(8) a summary of the current policies, initiatives, and programs to increase the number of women recruited and retained by the Vermont National Guard, any changes made by the Guard since the prior report, and any recommendations for legislative action to increase further the number of women recruited and retained by the Vermont National Guard; and

(9) a summary of the current policies, initiatives, and programs to increase the number of women serving in the Vermont National Guard as senior noncommissioned officers, warrant officers, and senior commissioned officers; any changes made by the Guard since the prior report; and any recommendations for legislative action to increase further the number of women serving in the Vermont National Guard as senior noncommissioned officers, warrant officers, and senior commissioned officers.

Sec. 2. 20 V.S.A. § 363 is amended to read:

#### § 363. OFFICERS GENERALLY

(a)(1) The ~~general assembly~~ General Assembly shall biennially elect an ~~adjutant and inspector general~~ Adjutant and Inspector General, who shall also be ~~quartermaster general~~ Quartermaster General with the rank of a major general.

(2) A candidate for Adjutant and Inspector General shall:

(A) be a resident of Vermont;

(B) have attained the rank of lieutenant colonel (O-5) or above;

(C) be a current member of the U.S. Army, the U.S. Air Force, the

U.S. Army Reserve, the U.S. Air Force Reserve, the Army National Guard, or the Air National Guard or be eligible to return to active service in the Army National Guard or the Air National Guard; and

(D) be a graduate of a Senior Service College, currently be enrolled in a Senior Service College, or be eligible to be enrolled in a Senior Service College during the biennium in which the candidate would first be appointed.

(3) A candidate for Adjutant and Inspector General shall, at the time he or she notifies the Secretary of State of his or her candidacy pursuant to 2 V.S.A. § 12, certify under oath to the Secretary that he or she meets the qualifications set forth in subdivision (2) of this subsection.

(b)(1) ~~Such officer~~ The Adjutant and Inspector General may appoint a deputy with appropriate rank, an ~~assistant adjutant general~~ Assistant Adjutant General for army Army, an ~~assistant adjutant general~~ Assistant Adjutant General for air Air, an ~~assistant adjutant general~~ Assistant Adjutant General for joint operations Joint Operations, a sergeant major, and a chief master sergeant, without pay, with the approval of the ~~governor~~ Governor.

(2) The ~~adjutant general~~ Adjutant and Inspector General may remove the appointed assistant adjutant generals and sergeants and shall be responsible for their acts.

(3) Upon appointment, each assistant adjutant general shall be a federally recognized officer of the ~~national guard~~ National Guard of the rank of lieutenant colonel or above, and shall have a rank of colonel or brigadier general, and the sergeant major shall be a federally recognized noncommissioned officer of the ~~national guard~~ National Guard of the rank of master sergeant or first sergeant, and the chief master sergeant shall be a federally recognized noncommissioned officer of the rank of senior master sergeant or first sergeant.

(4) The deputy, assistants, and sergeants shall perform duties as the ~~adjutant and inspector general and quartermaster general~~ Adjutant and Inspector General shall direct. In the absence or disability of the ~~officer~~ Adjutant and Inspector General, the deputy shall perform the duties of that office.

(c) In case a vacancy occurs in the office of ~~adjutant and inspector general and quartermaster general~~ Adjutant and Inspector General, the deputy shall assume and discharge the duties of the office until the vacancy is filled.

(d) The ~~appointments~~ Appointments made pursuant to subsection (b) of this section shall be in writing and recorded in the office of the ~~secretary of state~~ Secretary of State.

(e) All other officers of the ~~national guard~~ National Guard shall be chosen



in accordance with ~~such regulations as~~ rules adopted by the governor may prescribe Governor consistent with the laws of this ~~state~~ State and the United States.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(For text see House Journal March 13, 2018 )

**Amendment to be offered by Reps. Gonzalez of Winooski, Head of South Burlington, Stevens of Waterbury, Christie of Hartford, Harrison of Chittenden, Howard of Rutland City, Read of Fayston, Scheuermann of Stowe, Strong of Albany and Walz of Barre City to H. 771**

That the House concur with the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 2, 20 V.S.A. § 363, by striking out subdivision (a)(3) in its entirety:

Second: In Sec. 2, 20 V.S.A. § 363, by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read:

(d) ~~The appointments~~ Appointments made pursuant to subsection (b) of this section shall be in writing and recorded in the ~~office of the secretary of state~~ Office of the Secretary of State.

Third: By striking out Sec. 3, Effective Date, in its entirety and inserting in lieu thereof Secs. 3 through 9 to read:

Sec. 3. 20 V.S.A. § 370 is added to read:

#### § 370. ADJUTANT AND INSPECTOR GENERAL RECOMMENDATION BOARD

(a) The Adjutant and Inspector General Recommendation Board is created to nominate candidates for Adjutant and Inspector General.

(b)(1) The Board shall consist of 10 members who shall be selected as follows:

(A) The Senate Committee on Committees shall appoint four members of the Senate, not all of whom shall be members of the same party.

(B) The Speaker of the House shall appoint four members of the House, not all of whom shall be members of the same party.

(C) The Governor shall appoint two members who shall have served in the U.S. Armed Forces.

(2)(A) The members of the Board appointed by the Governor shall serve

for terms of two years and may serve for no more than three terms.

(B) The members of the Board appointed by the House and Senate shall serve for terms of two years and may serve for no more than three consecutive terms.

(C) All appointments shall occur between January 1 and February 1 of each odd-numbered year, except to fill a vacancy. Members shall serve until their successors are appointed.

(3) The members of the Board shall elect their own chair who shall serve for a term of two years.

(c) Legislative members of the Board shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406. Members of the Board who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement for expenses in the same manner as members of boards and commissions are compensated under 32 V.S.A. § 1010. All compensation and reimbursement shall be paid from the legislative appropriation.

(d) A quorum of the Board shall consist of six members.

(e) The Board is authorized to use the staff and services of appropriate State agencies and departments as necessary to conduct investigations of applicants.

Sec. 4. 20 V.S.A. § 371 is added to read:

§ 371. DECLARATION OF CANDIDACY FOR ADJUTANT AND  
INSPECTOR GENERAL

(a) A candidate for Adjutant and Inspector General shall, not later than four months prior to the election, declare his or her candidacy to the Board and demonstrate that he or she meets the qualifications set forth in subsection 363(a) of this chapter as required pursuant to procedures adopted by the Board.

(b) In the case of a vacancy in the office of Adjutant and Inspector General that occurs during a term, a candidate shall, not later than 14 days after the office of Adjutant and Inspector General becomes vacant, declare his or her candidacy to the Board and demonstrate that he or she meets the qualifications set forth in subsection 363(a) of this chapter as required pursuant to procedures adopted by the Board.

(c) The procedures necessary to carry out subsections (a) and (b) of this section may be adopted and revised at the discretion of the Board and shall not be subject to rulemaking under 3 V.S.A. §§ 836-844.

Sec. 5. 20 V.S.A. § 372 is added to read:

§ 372. DUTIES OF RECOMMENDATION BOARD

(a) Establishment of criteria, standards, and procedures.

(1) The Board shall adopt rules under 3 V.S.A. chapter 25 that establish criteria and standards for the evaluation and nomination of qualified candidates for Adjutant and Inspector General. In adopting criteria and standards, the Board shall consult with current and retired members of the Vermont Army National Guard and the Vermont Air National Guard. The criteria and standards adopted by the Board shall include:

(A) leadership;

(B) integrity;

(C) administrative and communication skills; and

(D) other criteria and standards as determined by the Board from time to time.

(b) Interview and selection.

(1) The Board shall interview each candidate for Adjutant and Inspector General who meets the qualifications set forth in subsection 363(a) of this chapter.

(2) The Board may, as necessary to determine whether a candidate meets the criteria and standards adopted pursuant to subsection (a) of this section:

(A) review records kept or maintained by the State, the Vermont National Guard, or the U.S. Armed Forces; and

(B) conduct interviews with current and former members of the National Guard of any state or the U.S. Armed Forces.

(3) Based on the information gathered pursuant to subdivisions (1) and (2) of this subsection, the Board shall evaluate each candidate against the criteria and standards established pursuant to subsection (a) of this section and shall nominate for election to the office of Adjutant and Inspector General all qualified candidates which satisfy those criteria and standards.

(c) Nomination. The Board shall submit the list of its nominees for Adjutant and Inspector General to the General Assembly and to the Secretary of State at least seven weeks prior to the election of the Adjutant and Inspector General.

(d) Confidentiality of proceedings and records.

(1) Except as otherwise provided by subdivision (2) of this subsection:

(A) all proceedings of the Board shall be confidential and exempt

from the Vermont Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2; and

(B) all records of the Board, including the names of candidates and any information related to candidates, shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(2) The following shall be public:

(A) the Board's rules and operating procedures;

(B) the Board's application procedures and any application forms or other forms used by the Board, provided they do not contain information about a candidate or confidential proceedings;

(C) proceedings of the Board that are not directly related to the consideration of candidates;

(D) the names of the candidates submitted to the Secretary of State pursuant to 2 V.S.A. § 12; and

(E) once the Board has submitted the list of candidates to the Secretary of State, the total number of applicants interviewed by the Board and the total number of candidates submitted to the Secretary of State.

Sec 6. 2 V.S.A. § 12 is amended to read:

#### § 12. LEGISLATIVE ELECTIONS; UNIFORM BALLOTS

\* \* \*

(b)(1) A candidate for office, other than for Adjutant and Inspector General, shall, not later than one week preceding the election, notify the Secretary of State in writing of his or her candidacy, naming the particular office. If he or she fails so to notify the Secretary of State, his or her name shall not be printed on the ballot.

(2) Not later than seven weeks prior to the election, the Adjutant and Inspector General Recommendation Board shall, pursuant to 20 V.S.A. § 372, submit the list of its nominees for Adjutant and Inspector General to the Secretary of State to be printed on the ballot prepared by the Secretary. The list shall constitute the complete list of candidates for Adjutant and Inspector General that are included on the ballot.

(3) No ballot may be used other than the official ballot provided by the Secretary of State.

#### Sec. 7. IMPLEMENTATION OF THE ADJUTANT AND INSPECTOR

##### GENERAL RECOMMENDATION BOARD

(a) The Senate Committee on Committees, the Speaker of the House, and the Governor shall appoint the members of the Adjutant and Inspector General

Recommendation Board pursuant to 20 V.S.A. § 370 on or before March 15, 2019. Initially, the members of the Board shall be appointed for a term that expires when their successors are appointed pursuant to 20 V.S.A. § 370.

(b) On or before September 1, 2019, the Adjutant and Inspector General Recommendation Board shall propose for adoption rules that establish criteria and standards for the evaluation and nomination of qualified candidates for Adjutant and Inspector General.

Sec. 8. 2019 ELECTION OF ADJUTANT AND INSPECTOR GENERAL;  
CERTIFICATION OF QUALIFICATIONS

For purposes of the 2019 election, a candidate for Adjutant and Inspector General shall, at the time he or she notifies the Secretary of State of his or her candidacy pursuant to 2 V.S.A. § 12(b), certify under oath to the Secretary that he or she satisfies the requirements set forth in 20 V.S.A. § 363(a)(2).

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1, 2, and 8 shall take effect on July 1, 2018.

(b) The remaining sections of this act shall take effect on March 1, 2019.

**NOTICE CALENDAR**

**Favorable with Amendment**

**H. 925**

An act relating to approval of amendments to the charter of the City of Barre

**Rep. Lewis of Berlin**, for the Committee on Government Operations, recommends the bill be amended as follows:

In Sec. 2, 24 App. V.S.A. chapter 1, in subchapter 6, § 605, in subsection (b), following “administered by the Department of Taxes, in accordance with” by striking out “State law governing such State tax” and inserting in lieu thereof “24 V.S.A. § 138” before the period

and by striking out subsection (c) in its entirety and relettering the remaining subsection to be alphabetically correct

**( Committee Vote: 7-0-4)**

**Rep. Wright of Burlington**, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations.

**(Committee Vote: 9-1-1)**

## **Senate Proposal of Amendment**

### **H. 271**

An act relating to administration of the Supplemental Nutrition Assistance Program

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, 33 V.S.A. § 1701(a), in the last sentence, by inserting a comma between the words “nutritious” and “safe”

Second: In Sec. 1, 33 V.S.A. § 1703(a), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) Within 90 days after a change described pursuant to subdivision (1) of this subsection, the Department shall provide an analysis to the Chairs of any anticipated administrative costs to the Department and any impacts on SNAP applicants and participants as a result of the change.

(For text see House Journal January 31, 2018 )

### **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. 267**

An act relating to timing of a decree nisi in a divorce proceeding.

Pending Question: Second reading?

### **Consent Calendar**

### **Concurrent Resolutions**

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should

be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

**H.C.R. 302**

House concurrent resolution congratulating Bennington Fire Department's Eagle Hose Company No.4 President Joseph A. Wassick for his 60-year tenure as a company member

**H.C.R. 303**

House concurrent resolution congratulating the 2018 Norwich University Cadets NCAA Division III championship women's ice hockey team

**H.C.R. 304**

House concurrent resolution commemorating the 125th anniversary of the legislative incorporation of the Village of Essex Junction

**H.C.R. 305**

House concurrent resolution designating Thursday, March 29, 2018 as Alzheimer's Awareness and Advocacy Day

**H.C.R. 306**

House concurrent resolution congratulating the 2018 Rutland High School Raiders Division I championship boys' basketball team

**H.C.R. 307**

House concurrent resolution congratulating the 2018 Sharon Academy Phoenix Division IV championship boys' basketball team

**H.C.R. 308**

House concurrent resolution congratulating the 2018 St. Johnsbury Academy Hilltoppers Division I championship girls' basketball team

**H.C.R. 309**

House concurrent resolution designating Tuesday, April 3, 2018 as National Service Day in Vermont

**H.C.R. 310**

House concurrent resolution designating April 2018 as the Month of the Military Child in Vermont

**H.C.R. 311**

House concurrent resolution commemorating the 150th anniversary of the founding of the Benevolent and Protective Order of Elks

**H.C.R. 312**

House concurrent resolution congratulating Amy Rounds of Westminster on her selection as the 2018 Vermont State Mother of the Year

**H.C.R. 313**

House concurrent resolution honoring Jeannine Griffin of Brandon as an educator and as a woman active in her faith community

**H.C.R. 314**

House concurrent resolution congratulating the 2018 Essex High School Hornets Division I championship boys' ice hockey team

**H.C.R. 315**

House concurrent resolution in memory of Antonio B. Pomerleau of Burlington

**Public Hearings**

Thursday, April 5, 2018, Public Hearing on the Minimum Wage (S.40), room 11, 5:30-7:30 PM, held by the House committee on General, Housing, and Military Affairs.

April 10, 2018, Public Hearing on H.196, An act relating to paid family leave, Room 11, 5:00-7:00 PM, Held by Senate Committee on Economic Development, Housing, and General Affairs