

Senate Calendar

FRIDAY, FEBRUARY 09, 2018

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ACTION CALENDAR

NEW BUSINESS

Second Reading

Favorable

H. 552.

An act relating to approval of the adoption and codification of the charter of the Town of Ferrisburgh.

Reported favorably by Senator Ayer for the Committee on Government Operations.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of January 25, 2018, page 177.)

H. 568.

An act relating to approval of amendments to the charter of the Town of Barre.

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

(Committee vote: 5-0-0)

(No House amendments)

H. 573.

An act relating to approval of an amendment to the charter of the City of Rutland.

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

(Committee vote: 5-0-0)

(No House amendments)

Favorable with Recommendation of Amendment

S. 164.

An act relating to establishing the Unused Prescription Drug Repository Program.

Reported favorably with recommendation of amendment by Senator Ayer for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. UNUSED PRESCRIPTION DRUG REPOSITORY PROGRAM; FEASIBILITY ANALYSIS; REPORT

(a) The Agency of Human Services, in consultation with the Board of Pharmacy and the Board of Medical Practice and after making reasonable efforts to consult with representatives from Vermont pharmacies, hospitals, long-term care facilities, and other health care facilities, shall evaluate the feasibility of implementing an unused prescription drug repository program to accept and dispense donated prescription drugs and supplies to Vermont residents who meet specified eligibility standards. In determining the feasibility of an unused prescription drug repository program in Vermont, the Agency of Human Services shall consider:

(1) the potential benefits of the program to Vermont consumers, the health care system, the environment, and the State;

(2) the costs of implementing and administering the program, including through a contractual arrangement with a third party;

(3) one or more funding sources to support the program;

(4) the criteria under which pharmacies, hospitals, long-term care facilities, and other health care facilities would accept and dispense donated prescription drugs and supplies under the program, including:

(A) eligibility criteria for participation by pharmacies, hospitals, long-term care facilities, and other health care facilities;

(B) standards and procedures for accepting, safely storing, and dispensing donated prescription drugs and supplies; and

(C) standards and procedures for inspecting donated prescription drugs and supplies to determine if the prescription drugs are in their original sealed and tamper-evident packaging and to ensure that the prescription drugs and supplies are not adulterated, misbranded, or otherwise unsafe for dispensing;

(5) eligibility criteria for individuals to receive donated prescription drugs and supplies dispensed by pharmacies, hospitals, long-term care facilities, and other health care facilities under the program;

(6) the fees that a pharmacy, hospital, long-term care facility, or other health care facility would be permitted to charge for accepting, distributing, or dispensing donated prescription drugs and supplies under the program;

(7) the types of prescription drugs and supplies that the program would accept; and

(8) an outreach and education plan to inform the public of the availability of the program, including information regarding:

(A) who may be eligible to receive donated prescription drugs and supplies under the program;

(B) how to demonstrate eligibility; and

(C) whether individuals may donate prescription drugs and supplies and, if so, how to donate them.

(b) On or before December 1, 2018, the Agency of Human Services shall provide to the House Committee on Health Care and the Senate Committee on Health and Welfare its analysis and recommendations regarding the implementation of an unused prescription drug repository program in Vermont.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 105.

An act relating to consumer justice enforcement.

Reported favorably with recommendation of amendment by Senator White for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 152 is added to read:

CHAPTER 152. MODEL STATE CONSUMER JUSTICE ENFORCEMENT
ACT; STANDARD-FORM CONTRACTS

§ 6055. UNCONSCIONABLE TERMS IN STANDARD-FORM
CONTRACTS PROHIBITED

(a) Unconscionable terms. There is a rebuttable presumption that the following contractual terms are substantively unconscionable when included in a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft the contract:

(1) A requirement that resolution of legal claims take place in an inconvenient venue. An inconvenient venue is defined for State law claims as a place other than the state in which the individual resides or the contract was consummated and for federal law claims as a place other than the federal judicial district where the individual resides or the contract was consummated.

(2) A waiver of the individual's right to assert claims or seek remedies provided by State or federal statute.

(3) A waiver of the individual's right to seek punitive damages as provided by law.

(4) Pursuant to 12 V.S.A. § 465, a provision that limits the time in which an action may be brought under the contract or that waives the statute of limitations.

(5) A requirement that the individual pay fees and costs to bring a legal claim substantially in excess of the fees and costs that this State's courts require to bring such a State law claim or that federal courts require to bring such a federal law claim.

(b) Relation to common law and the Uniform Commercial Code. In determining whether the terms described in subsection (a) of this section are unenforceable, a court shall consider the principles that normally guide courts in this State in determining whether unconscionable terms are enforceable. Additionally, the common law and Uniform Commercial Code shall guide courts in determining the enforceability of unfair terms not specifically identified in subsection (a) of this section.

(c) Severability. If a court finds that a standard-form contract contains an illegal or unconscionable term, the court shall:

(1) refuse to enforce the entire contract or the specific part, clause, or provision containing the illegal or unconscionable term; or

(2) so limit the application of the illegal or unconscionable term or the clause containing such term as to avoid any illegal or unconscionable result.

(d) Unfair and deceptive act and practice. It is an unfair and deceptive practice in violation of section 2453 of this title to include one of the presumptively unconscionable terms identified in subsection (a) of this section in a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft the contract. Notwithstanding any other provisions to the contrary, a party who prevails in a claim under this section shall be entitled to \$1,000.00 in statutory damages per violation and an award of reasonable costs and attorney's fees.

(e) Each term found to be unconscionable pursuant to subsection (a) shall constitute a separate violation of this section.

(f) This section shall not apply to contracts to which one party is:

(1) regulated by the Vermont Department of Financial Regulation; or

(2) a financial institution as defined by 8 V.S.A. § 11101(32).

Sec. 2. 12 V.S.A. § 5652 is amended to read:

§ 5652. VALIDITY OF ARBITRATION AGREEMENTS

(a) General rule. Unless otherwise provided in the agreement, a written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties creates a duty to arbitrate, and is valid, enforceable and irrevocable, except:

(1) upon such grounds as exist for the revocation of a contract; and

(2) as provided in 9 V.S.A. chapter 152.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on October 1, 2019.

(Committee vote: 5-0-0)

S. 244.

An act relating to repealing the guidelines for spousal maintenance awards.

Reported favorably with recommendation of amendment by Senator White for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SPOUSAL SUPPORT AND MAINTENANCE TASK FORCE

(a) Creation. There is created the Spousal Support and Maintenance Task

Force for the purpose of reviewing and making legislative recommendations to Vermont's laws concerning spousal support and maintenance.

(b) Membership. The Task Force shall be composed of the following nine members:

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

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

(3) a Superior Court judge who has significant experience in the Family Division of Superior Court appointed by the Chief Justice;

(4) the Chief Superior Judge;

(5) two experienced family law attorneys appointed by the Family Law Section of the Vermont Bar Association;

(6) a representative of Vermont Alimony Reform who is domiciled in Vermont;

(7) the Executive Director of the Vermont Commission on Women or a designee who is domiciled in Vermont; and

(8) a member of the public, to be appointed by the Governor.

(c) Powers and duties. The Task Force shall make legislative recommendations to Vermont's spousal support and maintenance laws aimed to improve clarity, fairness, predictability, and consistency across the State in recognition of changes to the family structure in recent decades. The Task Force shall consider:

(1) the impact of the federal tax law passed by Congress in December 2017 on Vermont's spousal support laws;

(2) whether the term "permanent" in 15 V.S.A. § 752(a) should be changed to "long term";

(3) adding the impact of retirement of either the payor or the recipient as a factor in determining the duration or amount of a spousal support award;

(4) the effect of prenuptial agreements on spousal support awards;

(5) the effect of remarriage, cohabitation, or the death of a payor on spousal support judgments;

(6) how the standard of living affects spousal support awards;

(7) the appropriate balance between judicial discretion and consistency in awards; and

(8) whether judicial discretion or the spousal support guidelines are presumptive.

(d) Assistance. The legislative members of the Task Force shall have the assistance of Legislative Council. The Vermont Bar Association shall provide support with any surveys undertaken by the Task Force.

(e) Reports.

(1) On or before November 1, 2018, the Task Force shall submit an interim report on the impact of the federal tax law passed by Congress in December 2017 on Vermont's spousal support laws, including its effects on existing spousal support payors and recipients.

(2) On or before March 1, 2019, the Task Force shall submit a majority and, if necessary, a minority report to the Senate and House Committees on Judiciary with its recommendations with respect to subdivisions (c)(2)-(8) of this section.

(f) Meetings.

(1) The Superior Court judge appointed in accordance with subdivision (b)(3) of this section shall serve as the Chair.

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

(3) The Task Force shall cease to exist on March 1, 2019.

(g) Reimbursement.

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

(2) Other members of the Task Force who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than ten regular meetings.

Sec. 2. 2017 Acts and Resolves No. 60, Sec. 3 is amended to read:

Sec. 3. REPEAL

On July 1, ~~2019~~ 2021, 15 V.S.A. § 752(b)(8) (spousal support and maintenance guidelines) is repealed.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

Reported favorably by Senator Nitka for the Committee on Appropriations.

The Committee on Appropriations to which was referred the bill respectfully report that it has considered the same and recommend that the bill ought to pass when amended as recommended by the Committee on Judiciary.

(Committee vote: 7-0-0)

CONCURRENT RESOLUTIONS FOR ACTION

H.C.R. 235 - 238 (For text of Resolutions, see Addendum to House Calendar for February 8, 2018)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Anthony Z. Roisman of Weathersfield – Chair, Public Utility Commission (term 6/12/17 – 2/28/23) – By Sen. Cummings for the Committee on Finance. (2/7/18)

Heather F. Shouldice of Montpelier – Chair, Capitol Complex Commission (term 9/6/17 – 10/31/19) – By Sen. Soucy for the Committee on Institutions. (2/9/18)

Susan Hayward of North Middlesex – Member, Capitol Complex Commission (term 9/6/17 – 10/31/19) – By Sen. Rodgers for the Committee on Institutions. (2/9/18)

Rachel Feldman of Middlesex – Member, Capitol Complex Commission (term 10/2/17 – 2/28/18) – By Sen. Mazza for the Committee on Institutions. (2/13/18)

PUBLIC HEARINGS

February 13, 2018 - 6:00 P.M. - 7:00 P.M. - Room 11 - Re: Governor's Recommended FY 2019 State Budget - House Committee on Appropriations.

Community-Based Public Hearings on the Governor's Recommended FY2019 State Budget

The Vermont House and Senate Committees on Appropriations are seeking public input on the Governor's Recommended FY2019 State Budget and will hold community-based public hearings on Monday, February 12, 2018, 6:00 – 7:00 p.m. at the following 5 locations.

Johnson State College – Stearns Student Center, Performance Space, 2nd Floor in Stearns

Rutland City – Rutland Public Schools, Longfellow School Building, Board Room

St. Johnsbury – St. Johnsbury House, Main dining room, 1207 Main St.

St. Albans City – St. Albans City School, Library, 29 Bellows St.

Winooski – Community College of Vermont, Room 401, 4th Floor.

NEWLY Added Site: Springfield – Springfield Town Hall, 96 Main Street, 3rd Floor Conference Room (Selectmen's Hall)

5:30-6:30 p.m.

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

The Committees will take testimony on the Governor's recommended State budget at the above dates and times. Anyone interested in testifying should come to one of the hearings. Time limits on testimony may apply depending on volume of participants. If you have a story you would like to share privately with the committee members, please contact Theresa to schedule this at the end of one of the hearings.

For more information about the format of these events, or to submit written testimony, contact Theresa Utton-Jerman or Rebecca Buck at tutton@leg.state.vt.us or rbuck@leg.state.vt.us or at 802-828-5767 or toll-free within Vermont at 1-800-322-5616. **Requests for interpreters should be made by Monday, January 29, 2018.**

February 22, 2018 - 7:00 P.M. - Room 11 - Re: Judicial Retention - Joint Committee on Judicial Retention.

NOTICE OF JOINT ASSEMBLY

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

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

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

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

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

FOR INFORMATION ONLY

CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

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

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Fee Bill).