

# Senate Calendar

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FRIDAY, APRIL 13, 2018

SENATE CONVENES AT: 11:30 A.M.

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**ACTION CALENDAR**

**NEW BUSINESS**

**Second Reading**

**Favorable**

**H. 199.**

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

**Reported favorably by Senator Ayer for the Committee on Health and Welfare.**

(Committee vote: 5-0-0)

(For House amendments, see House Journal of February 27, 2018, page 453)

**Reported favorably by Senator Westman for the Committee on Appropriations.**

(Committee vote: 7-0-0)

**Favorable with Proposal of Amendment**

**H. 27.**

An act relating to eliminating the statute of limitations on prosecutions for sexual assault.

**Reported favorably with recommendation of proposal of amendment by Senator Sears for the Committee on Judiciary.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 1386 is added to read:

§ 1386. EMPLOYMENT AGREEMENTS

In accordance with 21 V.S.A. § 306, it is the policy of the State of Vermont that no confidential employment separation agreement shall inhibit the disclosure to prospective employers of factual information about a prospective employee's background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a vulnerable adult or minor.

Sec. 2. 16 V.S.A. § 253 is amended to read:

§ 253. CONFIDENTIALITY OF RECORDS

(a) Criminal records and criminal record information received under this subchapter are designated confidential unless, under State or federal law or regulation, the record or information may be disclosed to specifically designated persons.

(b) The Secretary, a superintendent, or a headmaster may disclose criminal records and criminal record information received under this subchapter to a qualified entity upon request, provided that the qualified entity has signed a user agreement and received authorization from the subject of the record request. As used in this section, “qualified entity” means an individual, organization, or governmental body doing business in Vermont that has one or more individuals performing services for it within the State and that provides care or services to children, persons who are elders, or persons with disabilities as defined in 42 U.S.C. § 5119c.

(c) In accordance with 21 V.S.A. § 306, a board member, superintendent, or headmaster shall not enter into on behalf of a supervisory union, school district, or recognized or approved independent school a confidential employment separation agreement that inhibits the disclosure to prospective employers of factual information about a prospective employee’s background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a minor. Notwithstanding any provision of law to the contrary under 33 V.S.A. chapter 49, a board member, superintendent, or headmaster and employees of a supervisory union, school district, or recognized or approved independent school shall provide factually correct information concerning a former employee’s employment record with the supervisory union, school district, or recognized or approved independent school to a prospective employer of that individual if requested by the prospective employer. Nothing in this subsection shall permit the disclosure of information that is prohibited from disclosure by subsection (b) of this section. Notwithstanding any provision of law to the contrary, a person shall not be subject to civil or criminal liability for disclosing information that is required by this section to be disclosed if the person was acting in good faith and reasonably believed at the time of disclosure that the information disclosed was factually correct.

Sec. 3. COMMITTEE FOR PROTECTING STUDENTS FROM SEXUAL EXPLOITATION

(a) Creation. There is created the Committee for Protecting Students from Sexual Exploitation.

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

(1) the Secretary of Education or designee;

(2) the Executive Director of the Vermont School Boards Association or designee;

(3) the Executive Director of the Vermont Independent Schools Association or designee;

(4) the Executive Director of the Vermont National Educators Association or designee;

(5) the Executive Director of Child Abuse Vermont or designee;

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

(7) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;

(8) the Defender General or designee;

(9) the Commissioner for Children and Families or designee; and

(10) the Executive Director of the Vermont Superintendents Association or designee.

(c) Powers and duties. The Committee, in consultation with school personnel, shall:

(1) develop a model policy for adoption by public schools and recognized and approved independent schools, as defined in 16 V.S.A. § 11, on electronic communications between school employees and students, designed to prevent improper communications; and

(2) recommend whether behaviors by an employee of, or contractor for, a public school or recognized or approved independent school designed to establish a romantic or sexual relationship with a child or a student, so called "grooming behaviors," should be unlawful under Vermont law, and, if the Committee recommends that grooming behaviors should be unlawful, shall include in its recommendation:

(A) how grooming behaviors should be defined;

(B) whether all students or children in a school environment should be covered;

(C) whether the behavior should result in a misdemeanor or a felony, and the related punishment; and

(D) the statute of limitations for bringing a related action.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Report. On or before October 15, 2019, the Committee shall submit a written report to the House and Senate Committees on Education and on Judiciary with its findings and any recommendations.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Committee to occur on or before July 15, 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 October 16, 2019.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to sexual exploitation of students.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 16, 2017, page 230)

#### **Reported favorably with recommendation of proposal of amendment by Senator Benning for the Committee on Education.**

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Judiciary with the following amendments thereto:

First: In 1, Sec. 13 V.S.A. § 1386, (employment agreements), after the words “prospective employers”, by inserting the words or responsible licensing entities.

Second: In Sec. 2, 16 V.S.A. § 253, (confidentiality of records), subsection (c) in the first sentence, after the words “prospective employers”, by inserting the words or responsible licensing entities.

Third: By adding a new Sec. 4, to read:

Sec. 4. 21 V.S.A. § 306 is amended to read:

§ 306. PUBLIC POLICY OF THE STATE OF VERMONT; EMPLOYMENT SEPARATION AGREEMENTS

In support of the State's fundamental interest in protecting the safety of minors and vulnerable adults, as defined in 33 V.S.A. § 6902, it is the policy of the State of Vermont that no confidential employment separation agreement shall inhibit the disclosure to prospective employers or responsible licensing entities of factual information about a prospective employee's background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a minor or vulnerable adult. Any provision in an agreement entered into on or after the effective date of this section that attempts to do so is void and unenforceable.

And by renumbering the remaining section to be numerically correct.

(Committee vote: 5-0-1)

**NOTICE CALENDAR**

**Second Reading**

**Favorable**

**H. 690.**

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

**Reported favorably by Senator Ayer for the Committee on Health and Welfare.**

(Committee vote: 5-0-0)

(For House amendments, see House Journal of February 8, 2018, pages 336 - 339 and February 9, 2018, pages 343-345)

**Favorable with Proposal of Amendment**

**H. 294.**

An act relating to inquiries about an applicant's salary history.

**Reported favorably with recommendation of proposal of amendment by Senator Balint for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 495m is added to read:

§ 495m. SALARY HISTORY; EMPLOYMENT APPLICATIONS

(a) An employer shall not:

(1) inquire about or seek information regarding a prospective employee's current or past compensation from either the prospective employee or a current or former employer of the prospective employee;

(2) require that a prospective employee's current or past compensation satisfy minimum or maximum criteria; or

(3) determine whether to interview a prospective employee based on the prospective employee's current or past compensation.

(b) Notwithstanding subdivision (a)(1) of this section, if a prospective employee voluntarily discloses information about his or her current or past compensation, an employer may, after making an offer of employment with compensation to the prospective employee, seek to confirm or request that the prospective employee confirm that information.

(c) Nothing in this section shall be construed to prevent an employer from:

(1) inquiring about a prospective employee's salary expectations or requirements; or

(2) providing information about the wages, benefits, compensation, or salary offered in relation to a position.

(d) As used in this section, "compensation" includes wages, salary, bonuses, benefits, fringe benefits, and equity-based compensation.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 15, 2018, page 361)

**H. 333.**

An act relating to identification of gender-free restrooms in public buildings and places of public accommodation.

**Reported favorably with recommendation of proposal of amendment by Senator Balint for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Gender-Free Single Occupancy Restrooms \* \* \*

Sec. 1. 18 V.S.A. chapter 40 is added to read:

CHAPTER 40. RESTROOMS

§ 1791. DEFINITIONS

As used in this chapter:

(1) “Place of public accommodation” has the same meaning as in 9 V.S.A. § 4501.

(2) “Public building” has the same meaning as in 20 V.S.A. § 2730.

(3) “Single-user toilet facility” means a single-occupancy restroom with at least one water closet and with an outer door that can be locked by the occupant.

§ 1792. SINGLE-USER RESTROOMS

(a) Notwithstanding any other provision of law, any single-user toilet facility in a public building or place of public accommodation shall be made available for use by persons of any gender, and designated for use by not more than one occupant at a time or for family or assisted use. A single-user toilet facility may be identified by a sign, provided that the sign marks the facility as a restroom and does not indicate any specific gender.

(b) The Commissioner of Public Safety may inspect for compliance under subsection (a) of this section during any inspection conducted pursuant to 20 V.S.A. § 2731(b) or 26 V.S.A. § 2173 or 2174.

§ 1793. APPLICATION OF PLUMBING RULES

(a) Notwithstanding the requirements of any plumbing code adopted by the Plumber’s Examining Board under 26 V.S.A. § 2173(a), a toilet facility may be designated for use by persons of any gender. No separate male or female facility is required if the total number of required plumbing fixtures is provided by toilet facilities designated for use by persons of any gender.

(b) When the total number of required plumbing fixtures in a plumbing code adopted by the Plumber’s Examining Board under 26 V.S.A. § 2173(a) is fixed separately for women and men, the Plumber’s Examining Board shall make rules consistent with this chapter to govern how plumbing fixtures in toilet facilities designated for use by persons of any gender shall contribute to the total number of plumbing fixtures required by the plumbing code.

\* \* \* Conforming Changes \* \* \*

Sec. 2. 26 V.S.A. § 2173 is amended to read:

§ 2173. RULES ADOPTED BY THE BOARD

(a) The ~~plumber's examining board~~ Plumber's Examining Board may, pursuant to the provisions of 3 V.S.A. chapter 25 (Administrative Procedure Act), make and revise such plumbing rules as necessary for protection of the public health, except that no rule of the ~~board~~ Board may require the installation or maintenance of a water heater at a minimum temperature. To the extent that a rule of the ~~board~~ Board conflicts with this subsection or with 18 V.S.A. chapter 40, that rule shall be invalid and unenforceable. The rules shall be in effect in every city, village, and town having a public water system or public sewerage system and apply to all premises connected to the systems and all public buildings containing plumbing or water treatment and heating specialties whether they are connected to a public water or sewerage system. The local board of health and the ~~commissioner of public safety~~ Commissioner of Public Safety shall each have authority to enforce these rules. The rules shall be limited to minimum performance standards reasonably necessary for the protection of the public against accepted health hazards. The ~~board~~ Board may, if it finds it practicable to do so, adopt the provisions of a nationally recognized plumbing code.

\* \* \*

Sec. 3. 26 V.S.A. § 2174 is amended to read:

§ 2174. MUNICIPAL RULES AND REGULATIONS; MUNICIPAL INSPECTIONS

(a) The legislative body may establish inspection procedures and appoint trained, qualified master plumbers to conduct municipal inspections. If the ~~board~~ Board determines that the inspection procedures, training, and qualifications of the municipal plumbing inspectors are sufficient, the ~~commissioner~~ Commissioner may assign the responsibility to inspect plumbing installations within the municipality to the municipality. Municipal inspection standards shall be, at a minimum, equal to ~~state~~ State standards. Municipal standards may exceed ~~state~~ State standards with approval of the ~~board~~ Board. Municipal standards shall not prohibit implementation of 18 V.S.A. chapter 40. An assignment of responsibility under this subsection shall not affect the authority of the ~~board~~ Board or the ~~commissioner~~ Commissioner under this subchapter.

\* \* \*

\* \* \* Effective Date \* \* \*

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 21, 2017, page 769-770)

**H. 603.**

An act relating to human trafficking.

**Reported favorably with recommendation of proposal of amendment by Senator Benning for the Committee on Judiciary.**

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 3, 15A V.S.A. § 3-504, subdivision (a)(4), after the words "resulting in the conception of," by striking out the word "a" and inserting in lieu thereof the word the

(Committee vote: 5-0-0)

(No House amendments)

**H. 696.**

An act relating to establishing a State individual mandate.

**Reported favorably with recommendation of proposal of amendment by Senator Sirotkin for the Committee on Finance.**

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 1, 32 V.S.A. chapter 244, in its entirety and inserting in lieu thereof the following:

Sec. 1. [Deleted.]

Second: By striking out Sec. 3, effective dates, in its entirety and inserting in lieu thereof the following:

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-1-0)

(For House amendments, see House Journal for March 13, 2018, pages 622-624)

## House Proposals of Amendment

### S. 164

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

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

In Sec. 1, unused prescription drug repository program; feasibility analysis; report, in subsection (b), by striking out the words “House Committee on Health Care” and inserting in lieu thereof the words House Committees on Health Care and on Human Services

### S. 182

An act relating to the investment authority of municipal trustees of public funds.

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

First: In Sec. 1, 24 V.S.A. § 2432, in subsection (d), by striking out the subsection in its entirety and inserting in lieu thereof the following:

(d) The trustees may delegate management and investment of funds under their charge to the extent that is prudent under the terms of the trust or endowment, and in accordance with section 3415 (delegation of management and investment functions) of the Uniform Prudent Management of Institutional Funds Act, 14 V.S.A. chapter 120. Notwithstanding the limitations on investments set forth in subsection (b) of this section, an agent exercising a delegated management or investment function, if investing, shall invest the funds in a publicly traded security that is:

(1) registered with the Securities and Exchange Commission pursuant to 15 U.S.C. § 78l and listed on a national securities exchange;

(2) issued by an investment company registered pursuant to 15 U.S.C. § 80a-8;

(3) a corporate bond registered as an offering with the Securities and Exchange Commission pursuant to 15 U.S.C. § 78l and issued by an entity whose stock is a publicly traded security;

(4) a municipal security;

(5) a deposit in federally insured financial institutions as defined in 8 V.S.A. § 11101(32); or

(6) a security issued, insured, or guaranteed by the United States.

Second: In Sec. 3, 18 V.S.A. § 5384, in subsection (b), in subdivision (3), by striking the subdivision in its entirety and inserting in lieu thereof the following:

(3) The treasurer, selectboard, or trustees of public funds may delegate management and investment of town cemetery funds to the extent that it is prudent under the terms of the trust or endowment, and in accordance with the Uniform Prudent Management of Institutional Funds Act, 14 V.S.A. § section 3415 (delegation of management and investment functions) of the Uniform Prudent Management of Institutional Funds Act, 14 V.S.A. chapter 120. An Notwithstanding the limitations on investments set forth in this subsection, an agent exercising a delegated management or investment function, if investing, may shall invest cemetery funds only in the securities enumerated in this section in a publicly traded security that is:

(A) registered with the Securities and Exchange Commission pursuant to 15 U.S.C. § 78l and listed on a national securities exchange;

(B) issued by an investment company registered pursuant to 15 U.S.C. § 80a-8;

(C) a corporate bond registered as an offering with the Securities and Exchange Commission pursuant to 15 U.S.C. § 78l and issued by an entity whose stock is a publicly traded security;

(D) a municipal security;

(E) a deposit in federally insured financial institutions as defined in 8 V.S.A. § 11101(32); or

(F) a security issued, insured, or guaranteed by the United States.

### **S. 237**

An act relating to providing representation to needy persons concerning immigration matters.

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

By adding a new Sec. 1 to read as follows:

#### **Sec. 1. LEGISLATIVE INTENT**

It is the intent of the General Assembly that the Defender General, the Deputy Defender General, and public defenders shall, pursuant to 13 V.S.A. § 5203(3), continue to meet professional representation obligations to clients through representation that may extend to federal immigration court.

And by renumbering the remaining sections to be numerically correct.

**S. 282**

An act relating to health care providers participating in Vermont's Medicaid program.

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

First: In Sec. 1, Medicaid provider screening and enrollment, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) In the event that the Department of Vermont Health Access will be unable to meet the 60-day time frame required by subsection (a) of this section by July 1, 2019, the Commissioner of Vermont Health Access shall convene a meeting of interested stakeholders, including organizations representing health care providers and health care facilities, on or before February 1, 2019, to provide an update regarding the status of the Department's provider screening and enrollment efforts, including identifying the remaining barriers and any additional resources needed for the Department to be able to process applications within 60 days following receipt and providing an alternative date by which the Department expects to begin meeting the 60-day time frame requirement.

Second: In Sec. 2, Medicaid participating provider concerns; report, by striking out “; REPORT” in the section heading and by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) On or before December 15, 2018, the Commissioner of Vermont Health Access shall convene a meeting of interested stakeholders to provide a summary of the Department's responses to participating providers' concerns regarding the Medicaid program and its administration and of the Department's findings regarding the potential for making changes to the Medicaid fraud and abuse statutes and for creating an exception to recoupment as described in subsection (a) of this section.

**CONCURRENT RESOLUTIONS FOR ACTION**

**H.C.R. 316 - 327** (For text of Resolutions, see Addendum to House Calendar for April 12, 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.

Joseph M. Lorman of Rutland – Family Division Magistrate for Rutland, Bennington and Addison Counties – By Senator Sears for the Committee on Judiciary. (3/27/18)

Nathan Besio of Colchester – Member, Vermont Human Rights Commission – By Senator Benning for the Committee on Judiciary. (3/28/18)

Kevin Christie of White River Junction – Chair, Vermont Human Rights Commission – By Senator Nitka for the Committee on Judiciary. (3/28/18)

Richard Bailey of Hyde Park – Member, Transportation Board – By Senator Westman for the Committee on Transportation. (4/3/18)

David Markowski of Florence – Member, Transportation Board – By Senator Flory for the Committee on Transportation. (4/3/18)

David Coen of Shelburne – Chair, Transportation Board – By Senator Mazza for the Committee on Transportation. (4/11/18)