

# House Calendar

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Thursday, February 14, 2019

37th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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**ACTION CALENDAR**

**Third Reading**

**H. 63**

An act relating to the time frame for return of unclaimed beverage container deposits

**H. 135**

An act relating to the authority of the Agency of Digital Services

**Favorable with Amendment**

**H. 7**

An act relating to second degree aggravated domestic assault

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

Sec. 1. 13 V.S.A. § 1044 is amended to read:

§ 1044. SECOND DEGREE AGGRAVATED DOMESTIC ASSAULT

(a) A person commits the crime of second degree aggravated domestic assault if the person:

(1) Commits the crime of domestic assault and such conduct violates:

(A) specific conditions of a criminal court order in effect at the time of the offense imposed to protect that other person;

(B) a final abuse prevention order issued under 15 V.S.A. § 1103 or a similar order issued in another jurisdiction;

(C) a final order against stalking or sexual assault issued under 12 V.S.A. § 5133 or a similar order issued in another jurisdiction; or

(D) a final order against abuse of a vulnerable adult issued under 33 V.S.A. § 6935 or a similar order issued in another jurisdiction.

(2) Commits the crime of domestic assault; and

(A) has a prior conviction within the last 10 years for violating an abuse prevention order issued under section 1030 of this title; or

(B) has a prior conviction for domestic assault under section 1042 of this title or for an offense that, if committed within the State, would constitute a violation of section 1042 of this title.

(3) For the purpose of this subsection, the term “issued in another jurisdiction” means issued by a court in any other state; in a federally recognized Indian tribe, territory, or possession of the United States; in the Commonwealth of Puerto Rico; or in the District of Columbia.

(b) A person who commits the crime of second degree aggravated domestic assault shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

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## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

### **Action Under Rule 52**

#### **J.R.S. 14**

Joint resolution condemning the murder of Washington Post columnist Jamal Khashoggi and affirming the central importance of freedom of the press

**(For text see House Journal February 13, 2019)**

### **NOTICE CALENDAR**

#### **Favorable with Amendment**

#### **H. 107**

An act relating to paid family leave

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

Sec. 1. 21 V.S.A. chapter 5, subchapter 13 is added to read:

#### Subchapter 13. Family and Medical Leave Insurance

#### § 571. DEFINITIONS

As used in this subchapter:

(1) “Average weekly wage” means the employee’s total wages from his or her two highest-earning quarters in the last four completed calendar quarters divided by 26.

(2) “Bereavement leave” means a leave of absence from employment by an employee for the death of the employee’s family member that occurs not more than one year after the family member’s death. Bereavement leave includes leave taken in relation to the administration or settlement of the deceased family member’s estate.

(3) “Domestic partner” has the same meaning as in 17 V.S.A. § 2414.

(4) “Employee” means an individual who receives payments with respect to services performed for an employer from which the employer is required to withhold Vermont income tax pursuant to 32 V.S.A. chapter 151, subchapter 4.

(5) “Employer” means an individual, organization, governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company doing business in or operating within this State.

(6) “Family member” means the employee’s:

(A) child, step child or ward who lives with the employee, or foster child;

(B) spouse, domestic partner, or civil union partner;

(C) parent or the parent of the employee’s spouse, domestic partner, or civil union partner;

(D) sibling or the sibling of the employee’s spouse, domestic partner, or civil union partner;

(E) grandchild;

(F) grandparent or the spouse, domestic partner, or civil union partner of the employee’s grandparent;

(G) a child for whom the employee stands in loco parentis or an individual who stood in loco parentis for the employee when he or she was a child.

(7) “In loco parentis” means a child for whom the employee has day-to-day responsibilities to care for and financially support, or, in the case of the employee, an individual who had such responsibility for the employee when he or she was a child.

(8) “Family and medical leave” means a leave of absence from employment by an employee for:

(A) his or her own serious illness, provided he or she is not eligible to receive workers' compensation pursuant to 21 V.S.A. chapter 9 for the serious illness;

(B) a serious illness of the employee's family member;

(C) the employee's pregnancy;

(D) the birth of the employee's child; or

(E) the initial placement of a child 18 years of age or younger with the employee for the purpose of adoption or foster care.

(9) "Qualifying employee" means an individual who has earned wages during the last four completed calendar quarters in an amount that is equal to or greater than 1,040 hours at the minimum wage established pursuant to section 384 of this chapter.

(10) "Self-employed person" means a sole proprietor or partner owner of an unincorporated business, the sole member of an LLC that does not have any employees other than the member, or the sole shareholder of a corporation that does not have any employees other than the shareholder.

(11) "Serious illness" means an accident, disease, or physical or mental condition that:

(A) poses imminent danger of death;

(B) requires inpatient care in a hospital; or

(C) requires continuing in-home care under the direction of a physician.

(12) "Wages" means payments that are included in the definition of wages set forth in 26 U.S.C. § 3401.

#### § 572. FAMILY AND MEDICAL LEAVE INSURANCE; SPECIAL

##### FUND; ADMINISTRATION

(a)(1) The Family and Medical Leave Insurance Program is established for the provision of Family and Medical Leave Insurance benefits to eligible employees pursuant to this section.

(2)(A) The Commissioner of Taxes shall administer the collection of contributions and shall forward quarterly taxable wage information for each employee and quarterly self-employment income information for each self-employed individual who opts in to the Family and Medical Leave Insurance Program to the Commissioner of Labor.

(B) The Commissioner of Labor shall administer the receipt and processing of benefits applications, the determination of eligibility for benefits, the payment of benefits, the collection of overpaid benefits, and all other aspects of the program that are not administered by the Commissioner of Taxes.

(b) The Family and Medical Leave Insurance Special Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund may be expended by the Commissioners of Labor and of Taxes for the administration of the Family and Medical Leave Insurance Program and payment of Family and Medical Leave Insurance benefits provided pursuant to this section. All interest earned on Fund balances shall be credited to the Fund.

(c)(1)(A) The Fund shall consist of contributions equal to 0.93 percent of each employee's covered wages of which one-half shall be deducted and withheld by an employer from an employee's wages and one-half shall be paid by the employee's employer.

(B) In lieu of deducting and withholding the full amount of the contribution pursuant to subdivision (A) of this subdivision (1), an employer may elect to pay all or a portion of the contributions due from the employee's covered wages.

(C) As used in this subsection, the term "covered wages" does not include the amount of wages paid to an employee after he or she has received wages equal to \$150,000.00. Beginning on January 1, 2021, and on each subsequent January 1, the amount of wages included in the term "covered wages" shall be increased by the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1. The amount of wages included in the term "covered wages" shall not be decreased.

(2)(A) Notwithstanding subdivision (1)(A) of this subsection (c), the General Assembly shall annually establish the rate of contribution for the next fiscal year. The rate shall equal the amount necessary to provide Family and Medical Leave Insurance benefits pursuant to this subchapter, to maintain a reserve equal to at least nine months of the projected benefit payments for the next fiscal year, and to administer the Family and Medical Leave Insurance Program during the next fiscal year, adjusted by any balance in the Fund from the prior fiscal year.

(B) On or before February 1 of each year, the Commissioner of Labor, in consultation with the Commissioner of Taxes, shall report to the General Assembly the rate of contribution necessary to provide Family and

Medical Leave Insurance benefits pursuant to this subchapter, to maintain a reserve equal to at least nine months of the projected benefit payments for the next fiscal year, and to administer the Program during the next fiscal year, adjusted by any balance in the Fund from the prior fiscal year.

(d) The Commissioner of Taxes shall require the withholding of the contributions required pursuant to subsection (c) of this section from wages paid by any employer, as if the contributions were an additional Vermont income tax subject to the withholding requirements of 32 V.S.A. § 5841(a). The administrative and enforcement provisions of 32 V.S.A. chapter 151, subchapter 4 shall apply to the withholding requirement under this section as if the contributions withheld were a Vermont income tax.

#### § 573. BENEFITS

(a)(1) A qualified employee shall be permitted to receive a total of not more than 12 weeks of Family and Medical Leave Insurance benefits in a 12-month period for family and medical leave taken by the employee.

(2) An employee may use up to two out of the 12 weeks of Family and Medical Leave Insurance benefits available to him or her during a 12-month period for bereavement leave.

(b) A qualified employee awarded Family and Medical Leave Insurance benefits under this section shall receive 100 percent of his or her average weekly wage or an amount equal to a 40-hour workweek paid at a rate double that of the livable wage, as determined by the Joint Fiscal Office pursuant to 2 V.S.A. § 505, whichever is less.

(c) A qualified employee who receives Family and Medical Leave Insurance benefits for an intermittent leave or for a portion of a week, shall receive a prorated benefit amount.

(d) A family and medical leave or bereavement leave for which benefits are paid pursuant to this subchapter shall run concurrently with a leave taken pursuant to section 472 of this title or the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654.

#### § 574. APPLICATION FOR BENEFITS; PAYMENT; TAX

##### WITHHOLDING

(a) A qualified employee, or his or her agent, shall file an application for Family and Medical Leave Insurance benefits with the Commissioner of Labor under this section on a form provided by the Commissioner. The Commissioner shall determine whether the qualified employee is eligible to



receive Family and Medical Leave Insurance benefits based on the following criteria:

(1) The purposes for which the claim is made are adequately documented pursuant to rules adopted by the Commissioner.

(2) The employee satisfies the monetary eligibility requirements for a qualified employee.

(3) The qualified employee satisfies the eligibility requirements for the requested leave and has specified the anticipated duration of the leave.

(4) The benefits are being requested in relation to a family and medical leave or bereavement leave.

(b)(1) The Commissioner of Labor shall make a determination of each claim not later than five business days after the date the claim is filed, and Family and Medical Leave Insurance benefits shall be paid from the Fund created pursuant to this section. The Commissioner may extend the time in which to make a determination of a claim by not more than 15 business days if necessary to obtain documents or information that are needed to make the determination.

(2) A qualified employee may file an application for Family and Medical Leave Insurance benefits up to 60 days before an anticipated family and medical leave, or in the event of a premature birth, an unanticipated serious illness, or the death of a family member within 60 days after commencing a family and medical leave or bereavement leave.

(3) Benefits shall be paid to an employee for the time period beginning on the day his or her leave began and the first benefit payment shall be sent to a qualified employee within 14 days after his or her claim is approved, and subsequent payments shall be sent biweekly.

(4) The provisions of sections 1367 and 1367a of this title shall apply to Family and Medical Leave Insurance benefits.

(c)(1) An individual filing a claim for benefits pursuant to this section shall, at the time of filing, be advised that Family and Medical Leave Insurance benefits may be subject to income tax and that the individual's benefits may be subject to withholding.

(2) The Commissioner of Labor shall follow all procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A. chapter 151, subchapter 4 pertaining to the withholding of income tax.

(d) As used in this section, “agent” means an individual who holds a valid power of attorney for the employee or other legal authorization to act on the employee’s behalf that is acceptable to the Commissioner.

§ 575. REINSTATEMENT; SENIORITY AND BENEFITS PROTECTED

(a) The employer of an employee who receives Family and Medical Leave Insurance benefits under this subchapter shall reinstate the employee at the conclusion of his or her family and medical leave or bereavement leave, provided the employee does not take family and medical leave or bereavement leave for a total of more than 12 weeks in a 12-month period. The employee shall be reinstated in the first available suitable position given the position he or she held at the time his or her leave began.

(b) Upon reinstatement, the employee shall regain seniority and any unused accrued paid leave he or she was entitled to prior to the family and medical leave or bereavement leave, less any accrued paid leave used during the family and medical leave or bereavement leave.

(c)(1) Nothing in this section shall be construed to diminish an employee’s rights pursuant to subsection 472(f) of this chapter.

(2) The provisions of this section shall not apply if:

(A) the employee had been given notice, or had given notice, prior to the employee providing his or her employer with notice of the leave;

(B) the employer can demonstrate by clear and convincing evidence that during the leave, or prior to the employee’s reinstatement, the employee’s position would have been terminated or the employee laid off for reasons unrelated to the leave or the reason for which the employee took the leave;

(C) the employee fails to inform the employer of:

(i) his or her interest in being reinstated at the conclusion of the leave; and

(ii) the date on which his or her leave is anticipated to conclude;

or

(D) more than two years have elapsed since the conclusion of the employee’s leave.

(d)(1) An employee aggrieved by an employer’s failure to comply with the provisions of this section may bring an action in the Civil Division of the Superior Court in the county where the employment is located for compensatory and punitive damages or equitable relief, including restraint of

prohibited acts, restitution of wages or other benefits, reinstatement, costs, and other appropriate relief.

(2) A copy of the complaint shall be filed with the Commissioner of Labor.

(3) The court shall award reasonable attorney's fees to the employee if he or she prevails.

#### § 576. ELECTIVE COVERAGE

(a)(1) A self-employed person may elect to obtain coverage under the Family and Medical Leave Insurance Program for a period of three years by filing a notice of his or her election with the Commissioner of Taxes on a form provided by the Commissioner.

(2) The provisions of sections 573, 574, 578, 580, 581, and 582 of this chapter shall apply to a self-employed person who elects to obtain coverage pursuant to this section in the same manner as if he or she were an employee.

(b)(1) A person who elects to obtain coverage pursuant to this subsection shall:

(A) contribute an amount equal to 0.93 percent of his or her covered work income at times determined by the Commissioner; and

(B) provide to the Commissioner any documentation of his or her work income and any related information that the Commissioner determines is necessary.

(2) As used in this section, "covered work income" means an amount of self-employment work income earned by a self-employed person that is equal to the amount of covered wages pursuant to subdivision (c)(1)(C) of section 572 of this chapter.

(c) A person who elects coverage pursuant to this section shall be eligible to file a claim for and receive Family and Medical Leave Insurance benefits if he or she has made contributions to the Fund on covered work income that is equal to or greater than the amount of wages required to be a qualified employee as that term is defined pursuant to subdivision 571(4) of this subchapter.

(d)(1) A person who elects coverage pursuant to this section may terminate his or her coverage at the end of the three-year period by providing the Commissioner with written notice of the termination at least 30 days before the end of the period.

(2) If a person who elects coverage pursuant to this subsection does not terminate it at the end of the initial three-year period, he or she may terminate the coverage at the end of any succeeding annual period by providing the Commissioner with written notice of the termination at least 30 days before the end of the period.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, a person who, after electing to obtain coverage pursuant to this section, becomes an employee or stops working in Vermont, may elect to terminate his or her coverage pursuant to this section by providing the Commissioner with 30 days' written notice in accordance with rules adopted by the Commissioner.

(e)(1) Nothing in this section shall be construed to prevent an individual who is both an employee and a self-employed person from electing to obtain coverage pursuant to this section.

(2) The monetary eligibility of an individual who is both an employee and a self-employed person shall be determined based on his or her combined wages and self-employment income during the last four completed calendar quarters.

#### § 577. APPEALS

(a)(1) An employer or individual aggrieved by a decision of the Commissioner of Labor under section 574 or 581 of this subchapter may file with the Commissioner a petition for reconsideration within 30 days after receipt of the decision. The petition shall set forth in detail the grounds upon which it is claimed that the decision is erroneous and may include materials supporting that claim.

(2) If an employer petitions the Commissioner to reconsider a decision pursuant to section 574 or 581 of this subchapter, the Commissioner shall promptly notify the individual of the petition by ordinary, certified, or electronic mail and provide him or her with an opportunity to file an answer to the employer's petition.

(3) The Commissioner shall promptly notify the employer or individual, or both, of his or her decision by ordinary, certified, or electronic mail.

(b)(1) An employer or individual aggrieved by the Commissioner's decision on reconsideration may file an appeal with a departmental administrative law judge within 30 days after receiving the Commissioner's decision. The appeal shall set forth in detail the grounds upon which it is claimed that the decision is erroneous.

(2) The administrative law judge shall, upon not less than five business days' notice, hold a hearing on the appeal as provided pursuant to rules

adopted by the Commissioner. After the hearing, all parties to the appeal shall be promptly notified by ordinary, certified, or electronic mail of the findings of fact, conclusions, and decision of the administrative law judge.

(c) Any party may appeal the administrative law judge's decision to the Supreme Court within 30 days after receiving the decision.

(d) The provisions of section 1353 of this title shall apply to all determinations, redeterminations, findings of fact, conclusions of law, decisions, orders, or judgments entered or made pursuant to this section.

#### § 578. FALSE STATEMENT OR REPRESENTATION; PENALTY

A person who willfully makes a false statement or representation for the purpose of obtaining any benefit or payment or to avoid payment of any required contributions under the provisions of this subchapter, either for himself or herself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00 and shall forfeit all or a portion of any right to benefits under the provisions of this subchapter, as determined to be appropriate by the Commissioner of Labor or of Taxes, as appropriate, after a determination by the Commissioner that the person has willfully made a false statement or representation of a material fact.

#### § 579. RULEMAKING

(a) The Commissioner of Taxes shall adopt rules as necessary to implement the provisions of this subchapter related to the collection of contributions pursuant to section 572 of this subchapter and the determination of monetary eligibility for benefits.

(b) The Commissioner of Labor shall adopt rules as necessary to implement all other provisions of this subchapter.

#### § 580. CONFIDENTIALITY OF INFORMATION

(a) Information obtained from an employer or individual in the administration of this subchapter and determinations of an individual's right to receive benefits that reveal an employer's or individual's identity in any manner shall be kept confidential and shall be exempt from public inspection and copying under the Public Records Act. Such information shall not be admissible as evidence in any action or proceeding other than one brought pursuant to the provisions of this subchapter.

(b) Notwithstanding subsection (a) of this section:

(1) an individual or his or her duly authorized agent may be provided with information to the extent necessary for the proper presentation of his or

her claim for benefits or to inform him or her of his or her existing or prospective rights to benefits; and

(2) an employer may be provided with information that the Commissioner of Labor or of Taxes determines is necessary to enable the employer to discharge fully its obligations and protect its rights under this subchapter.

#### § 581. DISQUALIFICATIONS

A qualified employee shall be disqualified for benefits for any week in which he or she has received:

(1) compensation for temporary partial disability or temporary total disability under the workers' compensation law of any state or under a similar law of the United States; or

(2) unemployment compensation benefits under the law of any state.

#### § 582. OVERPAYMENT OF BENEFITS; COLLECTION

(a)(1) Any individual who by nondisclosure or misrepresentation of a material fact, by him or her, or by another person, has received Family and Medical Leave Insurance benefits when he or she failed to fulfill a requirement for the receipt of benefits pursuant to this chapter or while he or she was disqualified from receiving benefits pursuant to section 580 of this chapter shall be liable to repay to the Commissioner of Labor the amount received.

(2) Upon determining that an individual has received benefits under this chapter that he or she was not entitled to, the Commissioner of Labor shall provide the individual with notice of the determination. The notice shall include a statement that the individual is liable to repay to the Commissioner the amount of overpaid benefits and shall identify the basis of the overpayment and the time period in which the benefits were paid.

(3) The determination shall be made within not more than three years after the date of the overpayment.

(b)(1) An individual liable under this section shall repay the overpaid amount to the Commissioner for deposit into the Fund.

(2) If the Commissioner finds that the individual intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits, in addition to the repayment under subdivision (1) of this subsection, the person shall pay an additional penalty of 15 percent of the amount of the overpaid benefits, which shall also be deposited into the Fund.

(3) The Commissioner may collect the amounts due under this section in civil action in the Superior Court.

(c) If an individual is liable to repay any amount pursuant to this section, the Commissioner may withhold, in whole or in part, any future benefits payable to the individual pursuant to this chapter and credit the withheld benefits against the amount due from the individual until it is repaid in full, less any penalties assessed under subdivision (b)(2) of this section.

(d) In addition to the remedy provided pursuant to this section, an individual who intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits may be subject to the penalties provided pursuant to section 577 of this title.

#### § 583. PROTECTION FROM RETALIATION OR INTERFERENCE

(a) An employer shall not discharge or in any other manner retaliate against an employee who exercises or attempts to exercise his or her rights under this subchapter. The provisions against retaliation in subdivision 495(a)(8) of this title shall apply to this subchapter.

(b) An employer shall not interfere with, restrain, or otherwise prevent an employee from exercising or attempting to exercise his or her rights pursuant to this subchapter.

(c) An employee aggrieved by a violation of the provisions of this subchapter may bring an action in Superior Court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or other benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

#### Sec. 2. ADOPTION OF RULES

(a) On or before April 1, 2020, the Commissioner of Taxes shall adopt rules necessary to implement the provisions of 21 V.S.A. chapter 5, subchapter 13 related to the collection of contributions, which shall include:

(1) procedures for the collection of contributions; and

(2) reporting and record-keeping requirements for employers and self-employed individuals.

(b)(1) On or before April 1, 2020, the Commissioner of Labor shall adopt rules necessary to implement all other provisions of 21 V.S.A. chapter 5, subchapter 13, which shall include:

(A) procedures for receiving and processing applications for benefits;

(B) acceptable documentation for demonstrating eligibility for benefits;

(C) procedures for issuing benefits payments;

(D) forms and requirements for providing certification from a health care provider of the need for family leave that are modeled on the federal rules governing certification of a serious health condition under the Family and Medical Leave Act;

(E) forms and procedures for obtaining authorization for an individual's health care provider to disclose to the Commissioner information necessary to make a determination of the individual's eligibility for benefits; and

(F) procedures for appealing a decision pursuant to 21 V.S.A. § 574 that are modeled, to the extent possible, on the appeals process provided for determinations of benefits in relation to unemployment insurance.

(2) On or before October 1, 2021, the Commissioner shall adopt any necessary rules related to establishing that an in loco parentis relationship exists between an employee and another individual.

### Sec. 3. EDUCATION AND OUTREACH

On or before June 1, 2020, the Commissioner of Labor shall develop and make available on the Department of Labor's website information and materials to educate and inform employers and employees about the Family and Medical Leave Insurance Program established pursuant to 21 V.S.A. chapter 5, subchapter 13.

### Sec. 4. ESTABLISHMENT OF FAMILY AND MEDICAL LEAVE

#### INSURANCE PROGRAM; EXPENDITURES FROM SPECIAL FUND

Beginning on July 1, 2019, the Commissioner of Finance and Management may, pursuant to 32 V.S.A. § 588(4)(C), issue warrants for expenditures from the Family and Medical Leave Insurance Special Fund necessary to establish the Family and Medical Leave Insurance Program in anticipation of the receipt on or after July 1, 2020 of contributions submitted pursuant to 21 V.S.A. § 572.

### Sec. 5. ADEQUACY OF RESERVES; REPORT

Annually, on or before January 15, 2022, 2023, and 2024, the Commissioners of Labor and of Taxes, in consultation with the Commissioners of Finance and Management and of Financial Regulation, shall submit a



written report to the House Committees on Appropriations, on General, Housing, and Military Affairs, and on Ways and Means and the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance regarding the amount and adequacy of the reserves in the Family and Medical Leave Insurance Special Fund and any recommendations for legislative action necessary to ensure that an adequate reserve is maintained in the Fund.

Sec. 6. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

(1) “Employer” means an individual, organization ~~or~~, governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within this State ~~which for the purposes of parental leave that employs 10 or more individuals who are employed for an average of at least 30 hours per week during a year and for the purposes of family leave employs 15 or more individuals for an average of at least 30 hours per week during a year.~~

\* \* \*

(3) “Family leave” means a leave of absence from employment by an employee who works for an employer ~~which~~ that employs ~~15~~ 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:

(A) the serious illness of the employee; ~~or~~

(B) the serious illness of the employee’s ~~child, stepchild or ward who lives with the employee, foster child, parent, spouse or parent of the employee’s spouse~~ family member;

(4) ~~“Parental leave” means a leave of absence from employment by an employee who works for an employer which employs 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:~~

(C) the employee’s pregnancy;

~~(A)~~(D) the birth of the employee’s child; or

~~(B)~~(E) the initial placement of a child ~~16~~ 18 years of age or younger with the employee for the purpose of adoption or foster care.

(4) “Family member” means the employee’s:

(A) child, step child or ward who lives with the employee, or foster child;

(B) spouse, domestic partner, or civil union partner;

(C) parent or the parent of the employee's spouse, domestic partner, or civil union partner;

(D) sibling or the sibling of the employee's spouse, domestic partner, or civil union partner;

(E) grandchild;

(F) grandparent or the spouse, domestic partner, or civil union partner of the employee's grandparent;

(G) a child for whom the employee stands in loco parentis or an individual who stood in loco parentis for the employee when he or she was a child.

\* \* \*

(6) "Commissioner" means the Commissioner of Labor.

(7) "Domestic partner" has the same meaning as in 17 V.S.A. § 2414.

(8) "In loco parentis" means a child for whom the employee has day-to-day responsibilities to care for and financially support, or, in the case of the employee, an individual who had such responsibility for the employee when he or she was a child.

Sec. 7. 21 V.S.A. § 472 is amended to read:

§ 472. FAMILY LEAVE

(a) During any 12-month period, an employee shall be entitled to take unpaid leave for a period not to exceed 12 weeks for the following reasons:

(1) for parental leave, during the employee's pregnancy and;

(2) following the birth of an the employee's child or;

(3) within a year following the initial placement of a child ~~16~~ 18 years of age or younger with the employee for the purpose of adoption- or foster care;

(2)(4) for family leave, for the serious illness of the employee; or

(5) the serious illness of the employee's child, stepchild or ward of the employee who lives with the employee, foster child, parent, spouse, or parent of the employee's spouse family member.

(b) During the leave, at the employee's option, the employee may use accrued sick leave or vacation leave or any other accrued paid leave, ~~not to exceed six weeks~~ Family and Medical Leave Insurance benefits pursuant to subchapter 13 of this chapter, or short-term disability insurance or other insurance benefits. ~~Utilization~~ Use of accrued paid leave, Family and Medical Leave Insurance benefits, or other insurance benefits shall not extend the leave provided ~~herein~~ by this section.

\* \* \*

(d) The employer shall post and maintain in a conspicuous place in and about each of ~~his or her~~ its places of business printed notices of the provisions of this subchapter on forms provided by the Commissioner of Labor.

(e)(1) An employee shall give his or her employer reasonable written notice of intent to take family leave under this subchapter. Notice shall include the date the leave is expected to commence and the estimated duration of the leave.

(2) In the case of the adoption or birth of a child, an employer shall not require that notice be given more than six weeks prior to the anticipated commencement of the leave.

(3) In the case of an unanticipated serious illness or premature birth, the employee shall give the employer notice of the commencement of the leave as soon as practicable.

(4) In the case of serious illness of the employee or a member of the employee's family, an employer may require certification from a physician to verify the condition and the amount and necessity for the leave requested.

(5) An employee may return from leave earlier than estimated upon approval of the employer.

(6) An employee shall provide reasonable notice to the employer of his or her need to extend the leave to the extent provided by this chapter.

\* \* \*

(h) Except for serious illness of the employee, an employee who does not return to employment with the employer who provided the family leave shall return to the employer the value of any compensation paid to or on behalf of the employee during the leave, except payments of Family and Medical Leave Insurance benefits and payments for accrued sick leave or vacation leave. An employer may elect to waive the rights provided pursuant to this subsection.

Sec. 8. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

\* \* \*

(5) For any week with respect to which the individual is receiving or has received remuneration in the form of:

\* \* \*

(F) Family and Medical Leave Insurance benefits pursuant to chapter 5, subchapter 13 of this title.

\* \* \*

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 3, 4, and 5 shall take effect on July 1, 2019.

(b) Secs. 6, 7, and 8 shall take effect on October 1, 2021.

(c) Contributions shall begin being paid pursuant to 21 V.S.A. § 572 on July 1, 2020, and, beginning on October 1, 2021, employees may begin to receive benefits pursuant to 21 V.S.A. chapter 5, subchapter 13.

**( Committee Vote: 8-1-1)**

**Favorable**

**H. 218**

An act relating to lead poisoning prevention

**Rep. Rosenquist of Georgia**, for the Committee on Human Services, recommends the bill ought to pass.

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

**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. 47**

House concurrent resolution honoring Susan and Richard Collitt for their 40-plus years of dedicated proprietorship of the Ripton Country Store.

**H.C.R. 48**

House concurrent resolution congratulating Maddie Folsom on being named the 2018 Vermont Gatorade Girls' Volleyball Player of the Year

**H.C.R. 49**

House concurrent resolution congratulating the 2018 Harwood Union High School Highlanders Division II championship boys' lacrosse team

**H.C.R. 50**

House concurrent resolution congratulating Foster Brothers Farm of Addison County on being named the 2019 Innovative Dairy Farmer of the Year

**H.C.R. 51**

House concurrent resolution in memory of Rutland Town municipal leader Richard S. Lloyd

**H.C.R. 52**

House concurrent resolution congratulating Thetford Academy on the observance of its bicentennial

**H.C.R. 53**

House concurrent resolution recognizing the importance of Public, Educational, and Government Access cable television channels and their associated Community Media Access Centers

**H.C.R. 54**

House concurrent resolution congratulating Vermont Court Diversion on its 40th anniversary

**H.C.R. 55**

House concurrent resolution honoring Garry Montague on the conclusion of 53 years as a barber and 47 years as the owner of Garry's Barbershop in Essex Junction

## S.C.R. 4

Senate concurrent resolution in memory of former NOFA-VT Executive Director and organic farming pioneer advocate, Enid Wonnacott.

### Public Hearings

#### **PUBLIC AND ADVOCATE HEARINGS & MEMBERS' COMMENTS**

##### **On the FY2020 Governor's Recommended State Budget**

Joint Community-Based Public Hearings will be held on Monday, February 25, 2019, 6:00 - 7:00 p.m. – The House and Senate Committees on Appropriations are seeking public input on the FY2020 recommended State budget and will hold joint public hearings at 6 locations across the State.

**Morrisville** – People's Academy High School, Auditorium, top of Copley Avenue

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

**St. Johnsbury** – St. Johnsbury House, Main Dining Room, 1207 Main Street

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

**Winooski** – Community College of Vermont, Room 108, 1 Abenaki Way

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

##### **House Committee on Appropriations (only)**

**Advocate Hearings** will be held on **Wednesday, February 20, 2019, 1:00 – 2:30 p.m.** in room 11 of the State House in Montpelier (**AHS Sections only**). **Thursday, February 21, 2019 at 8:30 – 10:00 a.m.** in room 11 (all **NON-AHS Sections**).

**Members' Comments** are scheduled for **Friday, February 22, 2019 at 8:30 – 9:30 a.m.** in room 42 (**House Appropriations Committee Room**)

Anyone interested in testifying should come to one of the options above. Time limits on testimony may apply depending on volume of participants. Other than Public Hearings on February 25, all others should sign up in advance with Theresa.

To view a copy of the proposed budget, [click here](#). For more information about the format of any of these events, or to submit written testimony, e-mail Theresa Utton-Jerman at [tutton@leg.state.vt.us](mailto:tutton@leg.state.vt.us) or call 802-828-5767.

### **Joint Assembly**

**Thursday, February 21, 2019 10:30 A.M. – House Chamber** - Election of a Sergeant at Arms, of an Adjutant and Inspector General, and of three (3) trustees for the University of Vermont, and Vermont and State Agricultural College.

Candidates for the positions of Sergeant at Arms, Adjutant and Inspector General, and legislative candidates for UVM trustees must notify the Secretary of State **in writing** of their candidacies not later than Thursday, February 14, 2019, by 4:00 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.