

# House Calendar

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Thursday, March 14, 2019

65th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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**ACTION CALENDAR**

**Action Postponed Until March 14, 2019**

**Favorable with Amendment**

**H. 278**

An act relating to acknowledgment or denial of parentage

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

By striking out Sec. 3 (Effective Dates) in its entirety and adding new Secs. 3-6 to read as follows:

Sec. 3. 15C V.S.A. § 310 is amended to read:

§ 310. FORMS FOR VOLUNTARY ACKNOWLEDGMENT AND DENIAL  
OF PARENTAGE

(a) The Department of Health shall develop ~~an~~ a voluntary acknowledgment of parentage form and denial of parentage form for execution of parentage under this chapter.

\* \* \*

Sec. 4. 15C V.S.A. § 708 is amended to read:

§ 708. BIRTH AND PARENTAGE ORDERS

(a) A party consenting to assisted reproduction, a person who is a parent pursuant to sections 702-704 of this title, an intended parent or parents, or the person giving birth may commence a proceeding in the Probate Division of the Superior Court to obtain an order and judgment of parentage doing any of the following:

(1) declaring that the intended parent or parents are the parent or parents of the resulting child and ordering that parental rights and responsibilities vest exclusively in the intended parent or parents immediately upon the birth of the child;

(2) except as provide in subsection (d) of this section, sealing the record from the public to protect the privacy of the child and the parties;

(3) designating the contents of the birth certificate and directing the Department of Health to designate the intended parent or parents as the parent or parents of the child; or

(4) for any relief that the court determines necessary and proper.

(b) A proceeding under this section may be commenced before or after the birth of the child.

(c) Neither the donor, the State, nor the Department of Health is a necessary party to a proceeding under this section.

(d) The Probate Division of the Superior Court shall forward a certified copy of the order issued pursuant to this section to the Department of Health and to the intended parents or their representative.

(e) The intended parent or parents and any resulting child shall have access to the court records relating to the proceeding at any time.

Sec. 5. 15C V.S.A. § 804 is amended to read:

§ 804. BIRTH AND PARENTAGE ORDERS

(a) Before or after the birth of a resulting child, a party to a gestational carrier agreement may commence a proceeding in the Probate Division of the Superior Court to obtain an order and judgment of parentage doing any of the following:

(1) Declaring that the intended parent or parents are the parent or parents of the resulting child and ordering that parental rights and responsibilities vest exclusively in the intended parent or parents immediately upon the birth of the child.

(2) Declaring that the gestational carrier or her spouse, if any, are not the parents of the resulting child.

(3) Designating the contents of the birth certificate and directing the Department of Health to designate the intended parent or parents as the parent or parents of the child. The Department of Health may charge a reasonable fee for the issuance of a birth certificate.

~~(3)~~(4) Sealing the record from the public to protect the privacy of the child and the parties.

~~(4)~~(5) Providing any relief the court determines necessary and proper.

(b) Neither the State nor the Department of Health is a necessary party to a proceeding under subsection (a) of this section.

(c) The Probate Division of the Superior Court shall forward a certified copy of the order issued pursuant to this section to the Department of Health and to the intended parents or their representative.

(d) The intended parent or parents and any resulting child shall have access to their court records at any time.

Sec. 6. EFFECTIVE DATES

This section and Secs. 1–3 shall take effect on passage, and the remaining sections shall take effect on July 1, 2019.

( Committee Vote: 11-0-0)

**NEW BUSINESS**

**Third Reading**

**H. 287**

An act relating to small probate estates

**H. 512**

An act relating to miscellaneous court and Judiciary related amendments

**Amendment to be offered by Rep. Jessup of Middlesex to H. 512**

In Sec. 18a, 15 V.S.A. § 752, subsection (b), by striking subdivision (8) and inserting in lieu thereof the following:

(8) the following guidelines:

Length of marriage	% of the difference between parties' gross incomes	Duration of alimony award as % length of marriage
0 to <5 years	<del>0-20</del> <u>16</u> %	No alimony or short-term alimony up to one year
5 to <10 years	<del>15-35</del> <u>12-29</u> %	20-50% (1-5 yrs)
10 to <15 years	<del>20-40</del> <u>16-33</u> %	40-60% (3-9 yrs)
15 to <20 years	<del>24-45</del> <u>20-37</u> %	40-70% (6-14 yrs)
20+ years	<del>30-50</del> <u>24-41</u> %	45% (9-20+ yrs)

**S. 11**

An act relating to limiting senatorial districts to a maximum of three members

## Committee Bill for Second Reading

### H. 514

An act relating to miscellaneous tax provisions.

(Rep. Young of Greensboro will speak for the Committee on Ways and Means.)

#### Amendment to be offered by Rep. Harrison of Chittenden to H. 514

That the bill be amended in Sec. 31 (32 V.S.A. § 3752), after the phrase “As used in this chapter:” by inserting:

(1) “Agricultural land” means any land, exclusive of any housesite, in active use to grow hay or cultivated crops, pasture livestock, cultivate trees bearing edible fruit, or produce an annual maple product, and that is 25 acres or more in size, except as provided in this subdivision (1).

(A) Agricultural land shall include buffer zones as defined and required in the Agency of Agriculture, Food and Markets’ Required Agricultural Practices rule adopted under 6 V.S.A. chapter 215.

(B) Agricultural land shall include the land underlying any solar generation facility that is, in the aggregate, 0.1 of an acre or less of the total enrolled land.

(C) There shall be a presumption that the land is used for agricultural purposes if:

(A)(i) it is owned by a farmer and is part of the overall farm unit; or

(B)(ii) it is used by a farmer as part of his or her farming operation under written lease for at least three years; or

(C)(iii) it has produced an annual gross income from the sale of farm crops in one of two, or three of the five, calendar years preceding of at least:

(i)(I) \$2,000.00 for parcels of up to 25 acres; and

(ii)(II) \$75.00 per acre for each acre over 25, with the total income required not to exceed \$5,000.00.

(iii)(III) Exceptions to these income requirements may be made in cases of orchard lands planted to fruit-producing trees, bushes, or vines that are not yet of bearing age. As used in this section, the term “farm crops” also includes animal fiber, cider, wine, and cheese, produced on the enrolled land or on a housesite adjoining the enrolled land, from agricultural products grown on the enrolled land.

**Favorable**

**H. 321**

An act relating to aggravated murder for killing a firefighter or an emergency medical provider

**Rep. Goslant of Northfield**, for the Committee on Judiciary, recommends the bill ought to pass.

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

**Action Under Rule 52**

**J.R.S. 17**

Joint resolution providing for a Joint Assembly to vote on the retention of eight Superior Judges and one Magistrate

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

**NOTICE CALENDAR**

**Committee Bill for Second Reading**

**H. 518**

An act relating to fair and impartial policing.

**(Rep. Hashim of Dummerston** will speak for the Committee on Judiciary.)

**Favorable with Amendment**

**H. 460**

An act relating to sealing and expungement of criminal history records

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

Sec. 1. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

(1) “Court” means the Criminal Division of the Superior Court.

(2) “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.



(3) “Predicate offense” means a criminal offense that can be used to enhance a sentence levied for a later conviction, and includes operating a vehicle under the influence of alcohol or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. “Predicate offense” shall not include misdemeanor possession of marijuana, ~~or~~ a disorderly conduct offense under section 1026 of this title, or possession of a controlled substance in violation of 18 V.S.A. § 4230(a), § 4231(a), § 4232(a), § 4233(a), § 4234(a), § 4234a(a), § 4234b(a), § 4235(b), or § 4235a(a).

(4) “Qualifying crime” means:

(A) a misdemeanor offense that is not:

(i) a listed crime as defined in subdivision 5301(7) of this title;

(ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;

(iii) an offense involving violation of a protection order in violation of section 1030 of this title;

(iv) prostitution as defined in section 2632 of this title, or prohibited conduct under section 2601a of this title; or

(v) a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief;

(C) a violation of section 2501 of this title related to grand larceny;

(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title; ~~or~~

(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;

(F) a violation of subdivision 1404(c)(4) of this title related to conspiracy to receive stolen property;

(G) a violation of section 2001 of this title related to false personation;

(H) a violation of section 2002 of this title related to false pretenses or tokens;

(I) a violation of section 2561 of this title related to receiving stolen property;

(J) a violation of section 2575 of this title related to retail theft;

(K) a violation of 18 V.S.A. § 4230(a) related to possession of marijuana;

(L) a violation of 18 V.S.A. § 4231(a) related to possession of cocaine;

(M) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;

(N) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;

(O) a violation of 18 V.S.A. § 4234(a) related to possession of depressant, stimulant, and narcotic drugs;

(P) a violation of 18 V.S.A. § 4234a(a) related to possession of methamphetamine;

(Q) a violation of 18 V.S.A. § 4234b(a) related to possession of ephedrine and pseudoephedrine;

(R) a violation of 18 V.S.A. § 4235(b) related to possession of hallucinogenic drugs;

(S) a violation of 18 V.S.A. § 4235a(a) related to possession of ecstasy; or

(T) any offense for which a person has been granted an unconditional pardon from the Governor.

Sec. 2. 13 V.S.A. § 7606 is amended to read:

#### § 7606. EFFECT OF EXPUNGEMENT

~~(a) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. The court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. Order and notice. Upon finding that the requirements for expungement have been met, the court shall issue an order that shall include provisions that its effect is to annul the record of the arrest, conviction, and sentence, and that such person shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any~~

other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

(b) Effect.

(1) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been expunged.

(3) The response to an inquiry from any person regarding an expunged record shall be that "NO RECORD EXISTS."

(4) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense.

~~(c) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense Process.~~

(1) The court shall remove the expunged offense from any publicly and privately accessible database that it maintains.

(2) Until all charges on a docket are expunged, the case file shall remain publicly accessible.

(3) When all charges on a docket have been expunged, the case file shall be destroyed pursuant to policies established by the Court Administrator.

(d) Special index.

(1) The court shall keep a special index of cases that have been expunged together with the expungement order ~~and the certificate issued pursuant to this chapter.~~ The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Inspection of the expungement order ~~and the certificate~~ may be permitted only upon petition by the person who is the subject of the case. The ~~Administrative Judge~~ Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(4) ~~All other court documents in a case that are subject to an expungement order shall be destroyed~~ [Repealed].

(5) The Court Administrator shall establish policies for implementing this subsection.

~~(e) Upon receiving an inquiry from any person regarding an expunged record, an entity shall respond that “NO RECORD EXISTS.”~~

Sec. 4. 13 V.S.A. § 7607 is amended to read:

§ 7607. EFFECT OF SEALING

~~(a) Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue the person a certificate stating that such person’s behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence~~ Notice. The court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation’s National Crime Information Center.

(b) Effect.

(1) Except as provided in subdivision (c) of this section, upon entry of a sealing order, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been sealed.

(3) The response to an inquiry from any person regarding a sealed record shall be that “NO RECORD EXISTS.”

(c) Exceptions. Notwithstanding a sealing order:

(1) An entity that possesses a sealed record may continue to use it for any litigation or claim arising out of the same incident or occurrence or involving the same defendant.

(2) An entity may use the criminal history record sealed in accordance with section 7603 of this title, regarding a person who was cited or arrested, for future criminal investigations or prosecutions without limitation.

(d) ~~Upon receiving a sealing order, an entity shall:~~ Process.

~~(1) seal the investigation or prosecution record; The court shall bar viewing of the sealed offense in any publicly and privately accessible database that it maintains.~~

~~(2) enter a copy of the sealing order into the record; Until all charges on a docket have been sealed, the case file shall remain publicly accessible.~~

~~(3) flag the record as "SEALED" to prevent inadvertent disclosure of sealed information; and When all charges on a docket have been sealed, the case file shall become exempt from public access.~~

~~(4) upon receiving an inquiry from any person regarding a sealed record, respond that "NO RECORD EXISTS."~~

Sec. 5. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

\* \* \*

(e) Prior to the filing of any postjudgment motion in the Civil, Criminal, or Environmental Division of the Superior Court, including motions to reopen civil suspensions ~~and motions for sealing or expungement in the Criminal Division pursuant to 13 V.S.A. § 7602,~~ or motions to reopen existing cases in the Probate Division of the Superior Court, there shall be paid to the clerk of the court for the benefit of the State a fee of \$90.00 except for small claims actions and estates. A filing fee of \$90.00 shall be paid to the clerk of the court for a civil petition for minor settlements. There shall be no filing fee for motions to seal or expunge a criminal history record pursuant to 13 V.S.A. § 7602.

\* \* \*

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

**( 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. 67**

House concurrent resolution designating Tuesday, March 19, 2019 as Project Trio Day at the State House

#### **H.C.R. 68**

House concurrent resolution congratulating Cabot Creamery Co-operative on its centennial

#### **H.C.R. 69**

House concurrent resolution congratulating the St. Albans Cooperative Creamery on its centennial

#### **H.C.R. 70**

House concurrent resolution honoring Dr. Dennis LeBlanc for his four decades of outstanding dental service in Derby

#### **H.C.R. 71**

House concurrent resolution honoring civic activist Shirley Searles Squires of Guilford

#### **H.C.R. 72**

House concurrent resolution congratulating the 2018 Windsor High School Division III championship baseball team

#### **H.C.R. 73**

House concurrent resolution congratulating the 2018 Mt. Abraham Union High School Eagles Division II championship field hockey team

#### **H.C.R. 74**

House concurrent resolution congratulating the Brookfield Ice Harvest at the Floating Bridge on its 40th anniversary and honoring the event's founder, Al Wilder

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**H.C.R. 76**

House concurrent resolution congratulating The Pharmacy in Bennington and its founding pharmacists, Philip J. O'Neill and Edward P. Molloy, on the retailer's 50th anniversary

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House concurrent resolution congratulating Bennington Project Independence on its 40th anniversary and the 10th anniversary of its home at the Dr. Richard A. Sleeman Center

**H.C.R. 78**

House concurrent resolution recognizing March 15, 2019 as Brain Injury Awareness Day in Vermont

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House concurrent resolution in memory of former Norwich University professor and Northfield civic leader Donald MacPherson Wallace Jr.

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House concurrent resolution designating March 12, 2019 as Vermont Lions Day at the State House

**H.C.R. 81**

House concurrent resolution honoring Daniel Roberts on his half century of exemplary service as a Tunbridge volunteer firefighter

**H.C.R. 82**

House concurrent resolution in memory of former Assistant Sergeant at Arms and Head Doorkeeper Laurence A. Wade Sr. of East Barre

**S.C.R. 6**

Senate concurrent resolution honoring Linda Hall for her 30 years of outstanding volunteer leadership as the director of the Solomon Wright Public Library in Pownal

## **Information Notice**

### **CROSSOVER 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)) on or before **Friday, March 15, 2019**, and filed with the Secretary/Clerk so that 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 22, 2019**, and filed with the Secretary/Clerk so that 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.