

Senate Calendar

THURSDAY, APRIL 04, 2019

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ACTION CALENDAR

NEW BUSINESS

Third Reading

S. 131.

An act relating to insurance and securities.

S. 163.

An act relating to housing safety and rehabilitation.

H. 59.

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H. 146

An act relating to increasing the number of examiners on the Board of Bar Examiners from nine to 11 members.

H. 394.

An act relating to the disposition of the remains of veterans.

Second Reading

Favorable

H. 218.

An act relating to lead poisoning prevention.

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

(Committee vote: 5-0-0)

(No House amendments)

Favorable with Recommendation of Amendment

S. 111.

An act relating to the U.S. Department of Veterans Affairs' Airborne Hazards and Open Burn Pit Registry.

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

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. FINDINGS

The General Assembly finds that:

(1) According to the U.S. Department of Veterans Affairs (VA), "burn pits were a common way to get rid of waste at military sites in Iraq and Afghanistan."

(2) At present, the U.S. Department of Veterans Affairs provides contradictory information about the health impacts on soldiers of exposure to burn pits.

(3) On the one hand, the Department's website says, "At this time, research does not show evidence of long-term health problems from exposure to burn pits. VA continues to study the health of deployed Veterans."

(4) On the other hand, under the heading "Health effects from burn pit smoke" the VA states that "Toxins in burn pit smoke may affect the skin, eyes, respiratory and cardiovascular systems, gastrointestinal tract and internal organs. Veterans who were closer to burn pit smoke or exposed for longer periods may be at greater risk. Health effects depend on a number of other factors, such as the kind of waste being burned and wind direction. Most of the irritation is temporary and resolves once the exposure is gone. This includes eye irritation and burning, coughing and throat irritation, breathing difficulties, and skin itching and rashes. The high level of fine dust and pollution common in Iraq and Afghanistan may pose a greater danger for respiratory illnesses than exposure to burn pits, according to a 2011 Institute of Medicine report."

(5) According to the VA, the waste products in burn pits include "chemicals, paint, medical and human waste, metal/aluminum cans, munitions and other unexploded ordnance, petroleum and lubricant products, plastics, rubber, wood, and discarded food."

(6) In the past, the U.S. Armed Forces have been slow to acknowledge the physical injuries associated with environmental exposure during service members' active duty. Notable examples of this include exposure to Agent Orange during the Vietnam War and the condition known as Gulf War Veterans' Medically Unexplained Illness.

(7) After a period of equivocation, the U.S. government has usually acknowledged what veterans know too well—that their illnesses and suffering are real, that it is connected to their military service, and that the U.S. government must treat and compensate the veterans.

(8) Exposure to burn pits should be addressed proactively, and the State of Vermont and the U.S. government should prioritize the health of service members and veterans and not repeat past patterns of denial.

(9) A registry called the Airborne Hazards and Open Burn Pit Registry has been created to track service members who may have been exposed to burn pits. Between June 2014 and December 2018, 394 Vermonters joined the Registry.

(10) It is important that every Vermonter who was or may have been exposed to burn pits should participate in the Registry.

Sec. 2. DEPARTMENT OF HEALTH; EDUCATIONAL MATERIALS

(a)(1) On or before July 1, 2019, the Commissioner of Health, in consultation with the Adjutant and Inspector General and the U.S. Department of Veterans Affairs, shall develop written educational materials that provide information about health effects that are associated with chemicals identified at open burn pits during overseas military deployments, including:

(A) information regarding how to participate in the U.S. Department of Veterans Affairs' Airborne Hazards and Open Burn Pit Registry and resources that can provide assistance with the registration process;

(B) information regarding the eligibility requirements for participation in the Registry, including deployment locations and dates;

(C) contact information for the U.S. Department of Veterans Affairs' Airborne Hazards and Open Burn Pit Registry; and

(D) contact information for the Vermont Environmental Health Coordinator at the White River Junction VA facility.

(2)(A) On or before July 1, 2019, the information shall be made available on the Department of Health and the Office of Veterans Affairs websites.

(B) The Department of Health, in cooperation with appropriate professional licensing boards and professional membership associations, shall ensure the information is made available to all licensed health care providers in Vermont on or before July 1, 2019.

(b) On or before July 1, 2019, the Commissioner of Health and the Adjutant and Inspector General, in coordination with any available and interested federal or State agency, shall develop a pamphlet or other written informational material regarding the U.S. Department of Veterans Affairs' Airborne Hazards and Open Burn Pit Registry, including:

(1) information regarding the eligibility requirements for participation in the Registry, including deployment locations and dates;

(2) information regarding how to participate in the Registry and resources that can provide assistance with the registration process;

(3) the symptoms associated with exposure to open burn pits during overseas military deployments;

(4) contact information for the U.S. Department of Veterans Affairs' Airborne Hazards and Open Burn Pit Registry; and

(5) contact information for the Vermont Environmental Health Coordinator at the White River Junction VA facility.

**Sec. 3. COMMUNICATION TO SERVICE MEMBERS AND VETERANS;
NATIONAL GUARD; OFFICE OF VETERANS AFFAIRS**

(a) Beginning on or before July 1, 2019, the Adjutant and Inspector General and the Executive Director of the Vermont Office of Veterans Affairs, in consultation with any available and interested federal or State agency, shall collaborate to contact all members of the Vermont National Guard and all known veterans and members of the U.S. Armed Forces residing in Vermont who may be eligible to participate in the U.S. Department of Veterans Affairs' Airborne Hazards and Open Burn Pit Registry. In particular, the Adjutant and Inspector General and the Executive Director of the Vermont Office of Veterans Affairs shall contact all members of the Vermont National Guard and any veteran or member of the U.S. Armed Forces residing in Vermont who may have served in any of the following:

(1) Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn;

(2) Djibouti, Africa, on or after September 11, 2001;

(3) Afghanistan, on or after September 11, 2001;

- (4) Operation Desert Shield or Operation Desert Storm; or
- (5) in the Southwest Asia theater of operations on or after August 2, 1990.

(b) Each veteran or service member contacted shall be encouraged to join the Registry and shall be provided with:

(1) contact information for the U.S. Department of Veterans Affairs' Airborne Hazards and Open Burn Pit Registry; and

(2) a copy of the pamphlet created by the Commissioner of Health and the Adjutant and Inspector General pursuant to Sec. 2 of this Act.

Sec. 4. ADJUTANT AND INSPECTOR GENERAL; COORDINATION WITH U.S. DEPARTMENT OF VETERANS AFFAIRS

(a) On or before July 1, 2019, the Adjutant and Inspector General shall encourage the U.S. Department of Veterans Affairs to enhance and simplify the registration process for the Airborne Hazards and Open Burn Pit Registry by providing for:

(1) identification verification for DS Logon Level 2 access to be made available at U.S. Department of Veterans Affairs' community-based outpatient clinics throughout Vermont;

(2) the creation of a paper registration option; and

(3) the creation of a process for deceased veteran's family members to participate in the Registry on behalf of a deceased veteran.

(b)(1) On or before July 1, 2019, the Adjutant and Inspector General shall request that the Periodic Health Assessment for members of the Vermont National Guard determine whether the Guard member was deployed to a location that would make him or her eligible to participate in the U.S. Department of Veterans Affairs' Airborne Hazards and Open Burn Pit Registry, and whether the Guard member was exposed to open burn pits during his or her deployment to that location.

(2) On or before July 1, 2019, the Adjutant and Inspector General shall request that any member of the Vermont National Guard who during his or her Periodic Health Assessment is identified as having been potentially exposed to open burn pits during a deployment is automatically registered to participate in the U.S. Department of Veterans Affairs' Airborne Hazards and Open Burn Pit Registry.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

Favorable with Proposal of Amendment

H. 7.

An act relating to second degree aggravated domestic assault.

Reported favorably with recommendation of proposal of amendment by Senator White 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. § 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 a prior conviction in another jurisdiction 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:~~

(A) “issued 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) “Prior conviction in another jurisdiction” means a conviction 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.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 14, 2019, pages 182-183)

H. 19.

An act relating to sexual exploitation of a person in law enforcement officer custody.

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 by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

* * *

(9) “Law enforcement officer” means a person certified as a law enforcement officer under the provisions of 20 V.S.A. chapter 151.

Sec. 2. 13 V.S.A. § 3259 is added to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another law enforcement officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(No House amendments)

Proposed Amendment to the Vermont Constitution

PROPOSAL 5

(On Action Calendar for Second Reading pursuant to Rule 77)

Offered by: Senators Ashe, Balint, Lyons and Sears

Subject: Declaration of rights; right to personal reproductive liberty

PENDING ACTION: Second reading of the proposed amendment

Text of Proposal 5:

PROPOSAL 5

Sec. 1. PURPOSE

(a) This proposal would amend the Constitution of the State of Vermont to ensure that every Vermonter is afforded personal reproductive liberty. The Constitution is our founding legal document stating the overarching values of our society. This amendment is in keeping with the values espoused by the current Vermont Constitution. Chapter I, Article 1 declares “That all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights.” Chapter I, Article 7 states “That government is, or ought to be, instituted for the common benefit, protection, and security of the people.” The core value reflected in Article 7 is that all people should be afforded all the benefits and protections bestowed by the government, and that the government should not confer special advantages upon the privileged. This amendment would reassert the principles of equality and personal liberty reflected in Articles 1 and 7 and ensure that government does not create or perpetuate the legal, social, or economic inferiority of any class of people. This proposed constitutional amendment is not intended to limit the scope of rights and protections afforded by Article 7 or any other provision in the Vermont Constitution.

(b) The right to reproductive liberty is central to the exercise of personal autonomy and involves decisions people should be able to make free from compulsion of the State. Enshrining this right in the Constitution is critical to

ensuring equal protection and treatment under the law and upholding the right of all people to health, dignity, independence, and freedom.

Sec. 2. Article 22 of Chapter I of the Vermont Constitution is added to read:

Article 22. [Personal reproductive liberty]

That the people are guaranteed the liberty and dignity to determine their own life's course. The right to personal reproductive autonomy is central to the liberty protected by this Constitution and shall not be denied or infringed unless justified by a compelling State interest achieved by the least restrictive means.

Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2022 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

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

The Committee on Health and Welfare recommends that Proposal 5 be amended by striking out Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. Article 22 of Chapter I of the Vermont Constitution is added to read:

Article 22. [Personal reproductive liberty]

That an individual's right to personal reproductive autonomy is central to the liberty and dignity to determine one's own life course as protected by this Constitution, and shall not be denied or infringed unless justified by a compelling State interest achieved by the least restrictive means.

(Committee vote: 5-0-0)

Amendment to Proposal 5 to be offered by Senators Lyons, Cummings, Ingram, McCormack and Westman

Senators Lyons, Cummings, Ingram, McCormack and Westman move that the recommendation of the Committee on Health and Welfare be amended in Sec. 2 (Article 22) by striking out the following: "as protected by this Constitution,"

(The Committee on Health and Welfare adopts this recommendation of amendment to Proposal 5)

(Committee vote: 5-0-0)

CONCURRENT RESOLUTIONS FOR NOTICE

Concurrent Resolutions For Notice Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Secretary's Office.

S.C.R. 9 - 10 (For text of Resolutions, see Addendum to Senate Calendar for April 4, 2019)

H.C.R. 121 - 137 (For text of Resolutions, see Addendum to House Calendar for April 4, 2019)

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.

Michael P. Touchette of Colchester – Commissioner, Department of Corrections – By Senator Benning for the Committee on Institutions. (2/28/19)

Wanda Minoli of Montpelier – Commissioner, Department of Motor Vehicles (term 10/2/18 – 2/28/19) – By Sen. Mazza for the Committee on Transportation. (3/19/19)

Wanda Minoli of Montpelier – Commissioner, Department of Motor Vehicles (term 3/1/19 – 2/28/21) – By Sen. Mazza for the Committee on Transportation. (3/19/19)

Kaj Samsom of Montpelier – Commissioner, Department of Taxes – By Sen. Brock for the Committee on Finance. (3/22/19)

Thomas D. Anderson of Stowe – Commissioner, Department of Public Safety – By Sen. Ashe for the Committee on Transportation. (4/3/19)

John J. Quinn III of Northfield – Secretary, Agency of Digital Services –
By Sen. Collamore for the Committee on Government Operations. (4/4/19)

Susanne R. Young of Northfield – Secretary, Agency of Administration –
By Sen. White for the Committee on Government Operations. (4/4/19)

Oliver K. Olsen of South Londonderry – Member, State Board of Education
– By Sen. Parent for the Committee on Education. (4/4/19)

PUBLIC HEARINGS

April 4, 2019 - 5:00 - 6:30 P.M. - Room 11 - Re: Proposal 2 - Proposed
Amendment to the Vermont Constitution: Declaration of rights; eliminating
reference to slavery - Senate Committee on Government Operations.

SENATE APPROPRIATIONS COMMITTEE

H.542 (FY 2020 Budget)

ADVOCATES TESTIMONY

On **Tuesday, April 16, 2019** from **1:30-4:30 P.M.**, the Senate
Appropriations Committee will be taking testimony from advocates regarding
the Fiscal Year 2020 Budget (H.542) in Room 10 of the State House. To
schedule time before the Committee contact Becky Buck at the Legislative
Joint Fiscal Office located at 1 Baldwin Street; phone: 828-5969 or via email
at: rbuck@leg.state.vt.us

FOR INFORMATION ONLY

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.

**FOR INFORMATIONAL PURPOSES
CONSTITUTIONAL AMENDMENTS**

The 2019-2020 biennium is the second reading of a proposal of amendment; there is only a second reading this biennium. Third reading is during the 2021-2022 biennium.

Upon being reported by a committee, the proposal is printed in full in the Senate Calendar on the Notice Calendar for five legislative days. Senate Rule 77.

At second reading the proposal of amendment is read in full. Senate Rule 77.

The vote on any constitutional proposal of amendment and any amendment thereto is by yeas and nays. Senate Rules 77 and 80, and Vermont Constitutional §72 (requirement of 2/3 vote of members).

At second reading, the questions is: “Shall the Senate adopt the proposal of amendment to the Constitution of Vermont (as amended) as recommended by the Committee on ____ and request the concurrence of the House?” which requires 20 votes – 2/3 of the Senate. Vermont Constitution §72. Any amendments to the proposal of amendment require a majority. Senate Rule 80.

Amendments recommended by any senator shall be submitted to the committee of reference, in written form, where they shall be acted upon by the committee. Upon adoption or rejection of any amendment by the committee, the amendment and recommendation shall be printed in the calendar at least one legislative day before second reading. Senate Rule 78