

Journal of the Senate

WEDNESDAY, MARCH 20, 2019

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Bruce Wilkinson of Williston.

Committee Relieved of Further Consideration; Bill Committed

S. 167.

On motion of Senator Benning, the Committee on Institutions was relieved of further consideration of Senate bill entitled:

An act relating to compassionate release and parole eligibility, and the bill was committed to the Committee on Judiciary.

Bills Referred to Committee on Appropriations

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

S. 106. An act relating to establishing the Municipal Self-Governance Program.

S. 113. An act relating to the prohibition of plastic carryout bags, expanded polystyrene, and single-use plastic straws.

Bill Introduced

Senate bill of the following titles was introduced, read the first time and referred:

S. 170.

By Senator Bray,

An act relating to the Standard Offer Program and hydroelectric plants.

To the Committee on Finance.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 278.

An act relating to acknowledgment or denial of parentage.

To the Committee on Judiciary.

H. 321.

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

To the Committee on Judiciary.

Bill Amended; Third Reading Ordered

S. 107.

Senator Collamore, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to elections corrections.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Ratification of Articles of Amendment to the Vermont Constitution * * *

Sec. 1. 17 V.S.A. chapter 32 is amended to read:

CHAPTER 32. PUBLICATION AND RATIFICATION OF ARTICLES OF
AMENDMENT TO VERMONT CONSTITUTION

* * *

§ 1842. TIME OF VOTING; WARNING

(a) The people shall be assembled for the purpose of voting on the article of amendment in their respective towns and cities at the same time and place as for the general election, on the first Tuesday after the first Monday in November, in even-numbered years, and the warning for each meeting shall contain an article, in substance as follows:

“To see if the ~~freemen and freewomen~~ voters will vote to accept or reject the proposed article of amendment to the Constitution of Vermont.”

(b) The omission of that article from the warning shall not invalidate nor affect the vote on the proposed article of amendment, and the ~~freemen and freewomen~~ voters of each town or city shall vote on the article of amendment whether the warning contains the foregoing article or not.

§ 1843. PROCESS OF VOTING; MAKING RETURNS; CONDUCT OF MEETINGS

(a)(1) At those meetings the ~~freemen and freewomen~~ voters may vote by ballot for or against the article of amendment.

(2) The same officer shall preside in each such meeting as provided in section 2680 of this title.

(b) The board of civil authority shall, in open meeting, receive, sort, and count the votes of the ~~freemen and freewomen~~ voters for and against the article of amendment and the result shall be declared by the presiding officer. That result shall be recorded by the clerk of the town or city and true returns thereof shall be made, sealed up and sent by the clerk by mail or otherwise to the Secretary of State as provided in section 2588 of this title.

(c) The ~~ballot boxes for the reception of votes~~ polls for voting on the article of amendment shall be ~~opened and shall close~~ open as provided in section 2561 of this title.

§ 1844. PUBLICATION IN NEWSPAPERS AND ON STATE WEBSITES; BALLOTS

(a)(1) The Secretary of State shall, between September 25 and October 1 in any year in which a vote on ratification of an article of amendment is taken, prepare copies of the proposal of amendment and forward them, with a summary of proposed changes, for publication in at least two newspapers having general circulation in the State, as determined by the Secretary of State.

(2) The proposal shall be so published once each week for three successive weeks in each of the papers at the expense of the State and on the websites of the General Assembly and the Office of the Secretary of State.

(b) The Secretary of State shall cause ballots to be prepared for a vote by the ~~freemen and freewomen~~ voters of the State upon the proposal of amendment.

§ 1845. QUALIFICATIONS OF VOTERS; CHECKLISTS, BOOTHS, CLERKS

The qualifications of voters on the proposal of amendment, the checklist requirements for the election, and all other provisions relating to the conduct of the election shall be the same as those required ~~of voters at general elections under sections 2121-2126 of this title and sections 2141-2150 of this title relating to checklists shall apply, but the checklist specified in section 2141 of this title to be used at the meetings under this act shall be prepared and posted at least 30 days before the first Tuesday after the first Monday in November, in even-numbered years. Voting booths shall be prepared and the ballot clerks and assisting clerks shall be appointed, as in case of general elections.~~

§ 1846. FAILURE TO POST CHECKLISTS

The failure of the selectboard of any town, or the proper officers of any city, to prepare and post checklists of the ~~freemen and freewomen~~ voters of the town or city ~~at least 30 days before the first Tuesday after the first Monday in November, in even-numbered years,~~ as provided by section 1845 2141 of this title, shall not invalidate the votes given by the ~~freemen and freewomen~~ voters of the town or city upon the proposed article of amendment.

* * *

§ 1848. TABULATION OF RETURNS; RECORD OF AMENDMENTS

The Governor and Secretary of State shall, on the second Tuesday of December, of the year in which a vote on ratification of an article of amendment is taken, open and tabulate the returns made under section 1843 of this ~~title~~ chapter; and if it appears therefrom that the article of amendment has been ratified and adopted by a majority of the ~~freemen and freewomen~~ voters voting thereon, the amendment shall be enrolled on the parchment and deposited in the office of the Secretary of State as a part of the Constitution of this State and shall, in all future official revisions of the laws, be published in immediate connection therewith.

§ 1849. PROCLAMATION BY GOVERNOR

The Governor shall thereupon forthwith issue his or her proclamation, attested by the Secretary of State, reciting the article of amendment and announcing the ratification and adoption of it by the people of this State under this chapter and that the amendment has become a part of the Constitution thereof and requiring all ~~magistrates and officers,~~ and all citizens of the State to take notice thereof and govern themselves accordingly; or that the article of amendment has been rejected, as the case may be.

§ 1850. TRANSMISSION OF COPIES OF ~~ACT~~ CHAPTER AND FORMS
TO CLERKS

(a) The Secretary of State shall send to the clerk of each city and town a copy of this ~~act~~ chapter at least two months before the vote on the ratification of an article of amendment.

(b) In any year in which a vote on ratification of an article of amendment is taken, the Secretary of State shall, within the period prescribed by section 1844 of this ~~title~~ chapter, send to the clerk of each city and town ballots provided for in ~~that section 1844 of this title~~ and blank forms for the returns of votes on the article of amendment.

* * * Reapportionment * * *

Sec. 2. 17 V.S.A. § 1881a is amended to read:

§ 1881a. SENATORIAL DISTRICTS; NOMINATIONS AND ELECTION

* * *

(c)(1) Petitions for nominating candidates for Senator in the General Assembly by primary or by certificates of nomination of candidates for that office by convention, caucus, committee, or voters under chapter 49 of this title may be filed in the office of any county clerk in a senatorial district.

(2)(A) On the day after the last day for filing those petitions or certificates for that office, the other county clerk shall notify the senatorial district clerk of the facts concerning those petitions or certificates.

(B) The senatorial district clerk shall be responsible for determining the names of candidates and other facts required by law to appear on the ballot for the office of Senator, and for obtaining and distributing the ballots to the other clerks in the district. ~~In senatorial districts, the ballots for Senator in the General Assembly shall be separate from those for other county officers.~~

* * *

Sec. 3. 17 V.S.A. § 1901 is amended to read:

§ 1901. PURPOSE

(a) The Supreme Court of the United States has ruled that the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution requires all state legislative bodies to be apportioned in such manner as to achieve substantially equal weighting of the votes of all voters in the choice of legislators.

(b) To comply with such requirement it will be necessary to reapportion the House of Representatives and Senate at periodic intervals, so that changes may be recognized in legislative apportionment.

(c) It is the purpose of this chapter to achieve such reapportionment in an orderly and impartial manner.

Sec. 4. 17 V.S.A. § 1909 is amended to read:

§ 1909. REVIEW

(a) Within 30 days of the effective date of any apportionment bill enacted pursuant to section 1906b, 1906c, or 1907 of this ~~title~~ chapter, any five or more ~~freemen and freewomen~~ voters of the State aggrieved by the plan or act may petition the Supreme Court of Vermont for review of same.

(b) The sole grounds of review to be considered by the Supreme Court shall be that the apportionment plan, or any part of it, is unconstitutional or violates section 1903 of this ~~title~~ chapter.

* * *

* * * Voter Registration * * *

Sec. 5. 17 V.S.A. § 2145a is amended to read:

§ 2145a. REGISTRATIONS AT THE DEPARTMENT OF MOTOR
VEHICLES

(a) An application for, or renewal of, a motor vehicle driver's license or nondriver identification card shall serve as a simultaneous application to register to vote unless the applicant checks the box on the application designating that he or she declines to use the application as a voter registration application.

* * *

(c) An application for voter registration under this section shall update any previous voter registration by the applicant. Any change of address form submitted to the Department of Motor Vehicles in connection with an application for a motor vehicle driver's license shall serve to update voter registration information previously provided by the voter, unless the voter states on the form that the change of address is not for voter registration purposes.

(d)(1) The Department of Motor Vehicles shall transmit motor vehicle driver's license and nondriver identification card applications received under this section to the Secretary of State not later than five days after the date the application was accepted by the Department, or before the date of any primary or general election, whichever is sooner.

(2) The Department of Motor Vehicles shall not transmit motor vehicle driver's license and nondriver identification card applications when the applicant has designated that he or she declines to be registered.

(3) The Department of Motor Vehicles shall ensure confidentiality of records as required by subdivision (b)(2)(A) of this section.

* * *

(i) Notwithstanding the provisions of subsection (d) of this section or any other provision of law to the contrary, the Department of Motor Vehicles shall share its motor vehicle driver's license, driver privilege card, and nondriver identification card customer data with the Secretary of State's office for the Secretary's use in conducting voter registration and voter checklist maintenance activities.

Sec. 6. 17 V.S.A. § 2150 is amended to read:

§ 2150. REMOVING NAMES FROM CHECKLIST

* * *

(d) Except as provided in subsection (a) of this section, a board of civil authority shall only remove a name from the checklist in accordance with the following procedure:

(1) If the board of civil authority is satisfied that a voter whose eligibility is being considered is still qualified to vote in the municipality, the voter's name shall remain on the checklist, and no further action shall be taken.

(2)(A)(i) If the board of civil authority does not immediately know that the voter is still qualified to vote in the municipality, the board shall attempt to determine with certainty what the true status of the voter's eligibility is.

(ii) The board of civil authority may consider and rely upon official and unofficial public records and documents, including telephone directories, city directories, newspapers, death certificates, obituary (or other public notice of death), tax records, and any checklist or checklists showing persons who voted in any election within the last four years.

(iii) The board of civil authority may also designate one or more persons to attempt to contact the voter personally.

(B) Any voter whom the board of civil authority finds through such inquiry to be eligible to remain on the checklist shall be retained without further action being taken.

(C) The name of any voter proven to be deceased shall be removed from the checklist.

(3)(A)(i) If after conducting its inquiry the board of civil authority or town clerk is unable to locate a voter whose name is on the checklist, or if the inquiry reveals facts indicating that the voter may no longer be eligible to vote in the municipality, the board of civil authority or, upon request of the board, the town clerk shall send a written notice to the voter.

(ii) The notice shall be sent by first-class mail to the most recent known address of the voter, asking the voter to verify his or her current eligibility to vote in the municipality.

(iii) The notice shall be sent with the required U.S. Postal Service language for requesting change of address information.

(B) Enclosed with the notice shall be a ~~postage-paid~~ postage-paid pre-addressed return form on which the voter may reply swearing or affirming the voter's current place of residence as the municipality in question or alternatively consenting to the removal of the voter's name.

(C) The notice required by this subsection shall also include the following:

(A)(i) A statement informing the voter that if the voter has not changed his or her residence, or if the voter has changed his or her residence but the change was within the area covered by the checklist, the voter should return the form to the town clerk's office. The statement shall also inform the voter that if he or she fails to return the form as provided in this subdivision, written affirmation of the voter's address shall be required before the voter is permitted to vote.

(B)(ii) Information concerning how the voter can register to vote in another state or another municipality within this State.

(4) If the voter confirms in writing that the voter has changed his or her residence to a place outside the area covered by the checklist, the board of civil authority shall remove the voter's name from the checklist.

(5) In the case of voters who failed to respond to the notice sent pursuant to subdivision (3) of this subsection, the board of civil authority shall remove the voter's name from the checklist on the day after the second general election following the date of such notice, if the voter has not voted or appeared to vote in an election since the notice was sent or has not otherwise demonstrated his or her eligibility to remain on the checklist.

(6)(A) Notwithstanding the provisions of subdivision (5) of this subsection, if at any time subsequent to removal of a person's name from the checklist, the board determines that the person was still qualified to vote and that the voter's name should not have been removed, the board shall add the person's name to the checklist as provided in section 2147 of this ~~title~~ chapter.

(B) The provisions of this chapter shall be liberally construed, so that if there is any reasonable doubt whether a person's name should have been removed from the checklist, the person shall have the right to have the person's name immediately returned to the checklist.

(7)(A) The board of civil authority shall keep detailed records of its proceedings under this subchapter for at least two years. These records, except records relating to a person's decision not to register to vote or to the identity of the voter registration agency through which any particular voter registered, shall be public records and shall be available for inspection and copying at actual cost. The records shall include:

~~(A)~~(i) in the case of each name removed from the checklist, a clear statement of the reason or reasons for which the name was removed;

~~(B)~~(ii) in the case of the updating of the checklist required by subsection (c) of this section, the working copy or copies of the checklist used in the name by name review conducted to ascertain continued eligibility to vote;

~~(C)~~(iii) the total number of new registrations occurring during the period between general elections;

~~(D)~~(iv) the total number of persons removed from the checklist during the period between general elections; and

~~(E)~~(v) lists of the names and addresses of all persons to whom notices were sent under this subsection, and information concerning whether or not each person to whom a notice was sent responded to the notice as of the date that inspection of the records is made.

(B)(i) A letter certifying compliance with this section shall be filed with the Secretary of State by on or before September 20 of each odd-numbered year.

(ii) Upon request of any Superior judge or upon request of the Secretary of State, the town clerk shall forward a certified copy of the records of checklist maintenance.

* * * Political Parties * * *

Sec. 7. 17 V.S.A. chapter 45 is amended to read:

CHAPTER 45. POLITICAL PARTIES

§ 2301. ORGANIZATION OF MAJOR POLITICAL PARTIES

A major political party shall organize biennially as provided in this chapter. ~~No~~ A person acting on behalf of a major political party shall not accept any contribution or make any expenditure (except for the purpose of organizing under this chapter) unless the party has a current certificate of organization on file with the Secretary of State.

§ 2302. STATE CHAIR TO CALL CAUCUS

(a) The chair of the State committee of a party shall set a date for members of the party to meet in caucus in their respective towns, ~~which~~. The date shall be between September 10 and September 30, inclusive, in each odd-numbered year.

(b) At least 14 days before the date set for the caucuses, the State chair shall mail or electronically mail a notice of the date and purpose of the caucuses to each town clerk and to each town and county chair of the party.

§ 2303. TOWN CHAIR TO GIVE NOTICE

(a) The town chair or, if unavailable or if the records of the Secretary of State show there is no chair, any three voters of the town shall arrange to hold a caucus on the day designated by the State chair, in some public place within the town and shall set the hour of the caucus.

(b)(1) At least five days before the day of the caucus, the town chair shall post a notice of the date, purpose, time, and place of the caucus in the town clerk's office and in at least one other public place in town.

(2) In towns of ~~3,000~~ 5,000 or more population, he or she shall also publish the notice:

(A) in a newspaper having general circulation in the town; or

(B) in a nonpartisan electronic news media website or online forum that specializes in news of the State or the community.

(c) If three voters arrange to call the caucus, the voters shall designate one person among them to perform the duties prescribed in subsection (b) of this section for the town chair.

§ 2304. TOWN CAUCUS

(a)(1) At the time and place set for the town caucus, the voters of the party residing in the town shall meet in caucus and proceed to elect a town committee, consisting of such number of voters of the town as the caucus deems necessary, to serve during the following two years or until their successors are elected or appointed.

(2) Additional members of a town committee may be elected by the town committee at any meeting, and may be eligible to vote on matters before the town committee at that meeting or at the next meeting, as determined by the members of the committee before the election.

(b) The voter checklist used by the caucus shall be the most recent checklist approved by the board of civil authority.

§ 2305. FIRST MEETING OF TOWN COMMITTEE

(a)(1) The first meeting of the town committee shall be held immediately following adjournment of the caucus.

(2) At this meeting, members of the town committee shall elect committee officers and delegates to the county committee.

(b) All officers and other members of the town committee and all delegates to the county committee shall be voters of the town.

§ 2306. PROCEDURE UPON FAILURE TO HOLD CAUCUS

If the voters of the party residing in any town fail to hold a caucus on the day designated by the State ~~chairman~~ chair, any three or more voters of the party residing in the town may call and hold a caucus at any time thereafter, in the manner provided ~~above~~ in sections 2303 through 2305 of this chapter. Those voters calling the caucus shall designate one ~~of their number~~ person among them to perform the duties prescribed ~~above~~ in section 2303 for the town chair.

§ 2307. CERTIFICATION OF OFFICERS AND COUNTY COMMITTEE DELEGATES

(a) Within 72 hours after the caucus, the chair and secretary of the town committee shall ~~mail~~ submit to the ~~Secretary of State and the chairs of the State and county committees~~ a copy of the notice calling the meeting and a certified list of the names, ~~and mailing addresses, phone numbers, and e-mails~~ of the officers and members of the town committee and of the delegates to the county committee.

(b) A committee is not considered organized until a certificate of organization is filed by the State committee with the Secretary of State pursuant to section 2313 of this chapter. ~~it has filed the material required by this section.~~

(c) The Secretary of State shall furnish forms for this purpose to the chair of the State committee of a political party.

§ 2308. COMPOSITION OF COUNTY COMMITTEE

(a) The number of delegates to the county committee that each town caucus is entitled to elect shall be apportioned by the State committee, ~~based upon the number of votes cast for the party's candidate for Governor in the last election,~~ provided that each town caucus shall be entitled to elect at least two delegates.

(b) Delegates to the county committee shall be voters of the town, but need not be members of the town committee; ~~they.~~

(c) Delegates shall serve during the following for two years following their election or until their successors are elected or appointed.

§ 2309. FIRST MEETING OF COUNTY COMMITTEE

(a)(1) The chair of the State committee shall set a date, ~~not more than 45 days after the date of the party's caucuses,~~ for the first meeting of each county committee.

(2) The State chair shall notify the chairs of the county committees of the date of the meeting.

(3)(A) The chair of the county committee shall set the hour and place of the meeting and shall notify all delegates-elect by mail or electronic mail not less than 10 days prior to the meeting.

(B) If the chair of the county committee receives notice that a town committee within the county has organized 10 or fewer days before the date of the first meeting of the county committee, the chair ~~must~~ shall notify the newly elected members within 48 hours of receiving notice of the organized town committee.

(b)(1) At the time and place set for the meeting, the delegates shall proceed to elect their officers and perfect an organization of the county committee for the ensuing two years.

(2) All officers and other members of the county committee and all delegates to the State committee shall be voters of the county.

§ 2310. ELECTION OF STATE COMMITTEE

(a)(1) The chair of the county committee shall be a member of the State committee.

(2) Each county committee shall be entitled to elect at least two additional members of the State committee. These delegates need not be members of the county committee.

(3) If the rules or bylaws of a State committee provide for apportionment of additional members of the State committee to come from the county, the county committee also shall elect those additional members.

(b) All county committee members and officers and all persons elected to the State committee shall be voters in the county from which they are elected.

(c) County committee members and delegates to the State committee shall serve for ~~the following~~ two years following their election or until their successors are elected or appointed.

§ 2311. CERTIFICATION OF COUNTY OFFICERS AND STATE COMMITTEE MEMBERS

(a) Within 72 hours of the first meeting of the county committee, its chair and secretary shall mail submit to ~~the Secretary of State and~~ the chair of the State committee a copy of the notice calling the meeting and a certified list of the names, ~~and mailing addresses,~~ phone numbers, and e-mails of the officers of the county committee and of the members elected by the county committee to the State committee.

(b) A committee is not considered organized until ~~it has filed the material required by this section~~ a certificate of organization is filed by the State committee with the Secretary of State pursuant to section 2313 of this chapter.

(c) The Secretary of State shall prescribe and furnish forms for this purpose.

§ 2312. FIRST MEETING OF THE STATE COMMITTEE

(a) The chair of the State committee shall name an hour and place of meeting ~~on a day not less than 15 nor more than 30 days after the day set for the first meeting of the county committee of the party,~~ at which time the members-elect of the State committee shall meet and perfect an organization of the State committee for the ensuing two years.

(b) The chair of the State committee shall notify all members-elect of the State committee in writing, at least ~~seven~~ 10 days before the day set for the meeting.

§ 2313. FILING OF CERTIFICATE OF ORGANIZATION

(a)(1) Within 10 days after the first meeting of the State committee of a party, the chair and secretary shall file in the office of the Secretary of State a certificate stating that the party has completed its organization for the ensuing two years and has substantially complied with the provisions of this chapter.

(2) However, no State committee shall be eligible to file a certificate of organization unless it has town committees organized in at least 30 towns in this State and county committees organized in at least seven counties by January 1 of the year of the general election.

(b) The certificate of organization shall:

(1) set forth the names, and mailing addresses, phone numbers, and e-mails of the officers and members of the State committee, together with the counties that they represent. ~~It shall also;~~

(2) contain a listing of the towns and counties in which committees have organized

(3) designate, in not more than three words, the name by which the party shall be identified on any Australian ballot; and ~~shall~~

(4) be accompanied by a copy of the notice calling the meeting.

* * *

§ 2316. SECRET BALLOT

~~At every caucus or meeting of a political committee, if there is a contest for nomination, recommendation, or election to any office or position, the vote shall be taken by secret written ballot. [Repealed.]~~

§ 2317. VOTERS NOT TO PARTICIPATE IN MORE THAN ONE PARTY

No A voter shall not vote in ~~the biennial~~ a town, county, or State caucus of more than one party in the same year 12-month period, nor shall any voter simultaneously hold membership on the committees of more than one political party.

* * *

§ 2319. PARTY CONVENTIONS FOR PLATFORMS AND
PRESIDENTIAL ELECTIONS

On or before the fourth Tuesday in September in each even-numbered year, upon the call of the chair of the State committee of the party, a party platform convention of each organized political party shall be held to make and adopt the platform of the party. ~~In presidential years, the convention shall be the same convention held to nominate presidential electors.~~

* * *

* * * Nominations * * *

Sec. 8. 17 V.S.A. chapter 49 is amended to read:

CHAPTER 49. NOMINATIONS

Subchapter 1. Primary Elections

* * *

§ 2353. PETITIONS TO PLACE NAMES ON BALLOT

(a) The name of any person shall be printed upon the primary ballot as a candidate for nomination by any major political party for ~~any~~ the office indicated, if ~~petitions~~ a petition containing the requisite number of signatures made by registered voters, in substantially the following form, ~~are~~ is filed with the proper official, together with the person's written consent to having his or her name printed on the ballot:

* * *

(b)(1) A person's name shall not be listed as a candidate on the primary ballot of more than one party in the same election.

(2) A single petition shall contain only one office for which a person seeks to be a candidate.

(3) A person shall file a separate petition for each office for which he or she seeks to be a candidate.

§ 2354. SIGNING PETITIONS

(a) Any number of voters may sign the same petition.

(b)(1) A voter's signature shall not be valid unless at the time he or she signs, the voter is registered and qualified to vote for the candidate whose petition he or she signs.

(2) Each voter shall indicate his or her town of residence next to his or her signature.

(c) The signature of a voter on a candidate's petition does not necessarily indicate that the voter supports the candidate. ~~A voter shall not sign more than one petition for the same office, unless more than one nomination is to be made, in which case he or she may sign as many petitions as there are nominations to be made for the same office.~~

(d) A petition shall contain the name of only one candidate.

* * *

§ 2368. CANVASSING COMMITTEE MEETINGS

After the primary election is conducted, ~~the~~:

(1) The canvassing committee for State and national offices and statewide public questions shall meet at 10 a.m. one week after the day of the election.

(2) The canvassing committee for county offices ~~and~~ countywide public questions, and State Senator shall meet at 10 a.m. on the third day following the election.

(3) The canvassing committees for local offices ~~and~~ local public questions, ~~including~~ and State Representative, shall meet at 10 a.m. on the day after the election, except that in the case of canvassing committees for State Representative in multi-town representative districts, the committees shall meet at 10 a.m. on the third day after the election.

§ 2369. DETERMINING WINNER; TIE VOTES

(a) A person who receives a plurality of all the votes cast by a party in a primary shall be a candidate of that party for the office designated on the ballot.

(b)(1) If, after the period for requesting a recount under section 2602 of this title has expired, no candidate has requested a recount and two or more candidates of the same party are tied for the same office, or if the results of any recount result in a tie the choice among those tied shall be determined upon five days' notice and not later than 10 days following the primary

election by the committee of that party, which shall meet to nominate a candidate from among the tied candidates. The committee that nominates a candidate shall be as follows:

- (A) the State committee of a party for a State or congressional office;
- (B) the senatorial district committee for State Senate;
- (C) the county committee for county office; or
- (D) the representative district committee for a Representative to the General Assembly.

(2) The committee chair shall certify the candidate nomination for the general election to the Secretary of State within 48 hours of the nomination.

* * *

§ 2370. WRITE-IN CANDIDATES

(a)(1) In order to have votes counted for a write-in candidate under section 2587 of this title, not later than 5:00 p.m. on the Friday preceding the primary election, a write-in candidate shall file with the Secretary of State a form consenting to candidacy for office. The consent form shall set forth the name of the write-in candidate, the name of the office for which he or she consents to be a candidate, the candidate's town of residence, and his or her correct mailing address.

(2) The Secretary of State shall prepare and furnish forms for this purpose.

(b) A write-in candidate shall not qualify as a primary winner unless he or she:

(1) has complied with subsection (a) of this section; and

(2) receives at least one-half the number of votes as the number of signatures required for his or her office on a primary petition, except that if a write-in candidate receives more votes than a candidate whose name is printed on the ballot, he or she may qualify as a primary winner.

(b)(c) The write-in candidate who qualifies as a primary winner under this section must still be determined a winner under section 2369 of this chapter before he or she becomes the party's candidate in the general election.

* * *

Subchapter 3. Independent Candidates

* * *

§ 2403. NUMBER OF CANDIDATES; PARTY NAMES

(a) A statement of nomination shall contain the name of only one candidate, except in the case of presidential and vice presidential candidates, who may be nominated by means of the same statement of nomination. ~~A person shall not sign more than one statement of nomination for the same office.~~

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Subchapter 4. Miscellaneous Provisions

* * *

§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE;
DISCLOSURE FORM

* * *

(d)(1) A senatorial district clerk or representative district clerk who receives a disclosure form under this section shall forward a copy of the disclosure to the Secretary of State within three business days of receiving it.

(2)(A) The Secretary of State shall post a copy of any disclosure forms and tax returns he or she receives under this section on his or her official State website. The forms shall remain posted on the Secretary's website until the date of the filing deadline for petition and consent forms for major party candidates for the statewide primary in the following election cycle.

* * *

* * * Election Complaint Procedure * * *

Sec. 9. 17 V.S.A. § 2458 is amended to read:

§ 2458. COMPLAINT PROCEDURE

(a)(1) The Secretary of State shall adopt rules to establish a uniform and nondiscriminatory complaint procedure to be used by any person who believes that a violation of this title or any other provision of ~~Title III of United States Public Law 107-252 52 U.S.C. chapter 209, subchapter III (Uniform and Nondiscriminatory Election Technology and Administration Requirements)~~ has occurred, is occurring, or is about to occur in the course of any election in which a candidate for federal office appears on the ballot.

(b) ~~For purposes of As used in~~ this section, “complaint” ~~shall mean~~ means a statement in writing made by a voter stating, with particularity, the violation, notarized, and sworn or affirmed under penalty of perjury.

(c) The Secretary's rules shall provide for an informal proceeding to hear complaints for all complainants unless a formal hearing is requested. Formal

complaints held pursuant to this section shall be in conformance with the rules adopted by the Secretary.

(d) Any decision of the Secretary may be appealed to the Superior Court in the county where the individual resides.

* * * Conduct of Elections * * *

Sec. 10. 17 V.S.A. § 2473 is amended to read:

§ 2473. PROVISIONS RELATIVE TO PRESIDENTIAL ELECTION

* * *

(c)(1) If a candidate whose name is not printed on the ballot receives the greatest number of votes for President, the Secretary of State shall notify him or her of that fact, and within two weeks thereafter, the candidate shall file with the Secretary of State, a list of ~~freemen and freewomen~~ voters equal to the number of electors that the State is entitled to elect. The list shall be signed by the candidate personally.

(2) The persons so named shall be electors, having the duties prescribed in this title.

Sec. 11. 17 V.S.A. § 2508 is amended to read:

§ 2508. CAMPAIGNING DURING POLLING HOURS; VOTER ACCESS

(a)(1) The presiding officer shall ensure during polling hours on the day of the election that:

(A) within the building containing a polling place, no campaign literature, stickers, buttons, name stamps, information on write-in candidates, or other political materials that display the name of a candidate on the ballot or an organized political party or that demonstrate support or opposition to a question on the ballot are displayed, placed, handed out, or allowed to remain;

(B) within the building containing a polling place, no candidate, election official, or other person distributes election materials, solicits voters regarding an item or candidate on the ballot, or otherwise campaigns; and

(C) on the walks and driveways leading to a building in which a polling place is located, no candidate or other person physically interferes with the progress of a voter to and from the polling place.

(2) The provisions of subdivision (1) of this subsection shall apply to the town clerk's office during any period of early or absentee voting.

(b) During polling hours, the presiding officer shall control the placement of signs on the property of the polling place in a fair manner.

(c) The provisions of this section shall be posted in the notice required by section 2521 of this ~~title~~ chapter.

* * * Early or Absentee Voters * * *

Sec. 12. 17 V.S.A. chapter 51, subchapter 6 is amended to read:

Subchapter 6. Early or Absentee Voters

§ 2531. APPLICATION FOR EARLY VOTER ABSENTEE BALLOT

(a) Deadline to file.

(1)(A) A voter who expects to be an early or absentee voter, or an authorized person on behalf of such voter, may apply for an early voter absentee ballot until 5:00 p.m. or the closing of the town clerk's office on the day preceding the election.

(2)(B) If a town clerk does not have regular office hours on the day before the election and his or her office will not otherwise be open on that day, an application may be filed until the closing of the clerk's office on the last day that office has hours preceding the election.

(2)(A) In cases of emergency, including unanticipated illness or injury, at his or her discretion the town clerk may accept a request for an absentee ballot after the deadline set forth in subdivision (1) of this subsection.

(B) In such cases of emergency, the ballot may be mailed, electronically delivered, or delivered by two justices of the peace as set forth in subsection 2539(b) of this subchapter.

(b) Place of filing.

(1) All applications shall be filed with the town clerk of the town in which the early or absentee voter is registered to vote.

(2) The town clerk shall file written applications and memoranda of verbal applications in his or her office, and shall retain the applications and memoranda for 90 days following the election, at which time they may be destroyed.

(c) Australian ballot. Voting by early voter absentee ballot shall be allowed only in elections using the Australian ballot system.

§ 2532. APPLICATIONS AUTHORIZED APPLICANTS; APPLICATION FORM; DUPLICATES

(a) Authorized applicants.

(1)(A) An early or absentee voter, or an authorized family member or health care provider acting in the voter's behalf, may apply for an early voter

absentee ballot by telephone, in person, or in writing. ~~Family~~ As used in this subsection, “family member” here means a person’s spouse, children, brothers, sisters, parents, spouse’s parents, grandparents, and spouse’s grandparents.

(B) Any other authorized person may apply in writing or in person; provided, however, that voter authorization to such a person shall not be given by response to a robotic phone call.

(b)(2) Form of application.

(1) The application shall be in substantially the following form:

REQUEST FOR EARLY VOTER ABSENTEE BALLOT

Name of early or absentee voter: _____

Voter’s Town of Residence: _____

Current physical address (address where you reside): _____

Telephone Number: _____ E-mail Address: _____

Date: _____

I request early voter absentee ballot(s) for the election(s) checked below:

- (1) Annual Town Meeting;
- (2) All other local elections;
- (3) August Primary Election;
- (4) Presidential Primary (YOU MUST SELECT PARTY);
- (5) November General Election;
- (6) All elections in this calendar year.

Please deliver the ballot(s) as indicated below (check one):

(1) Mail to voter at: _____
 Street or P.O. Box Town/City State Zip Code

(2) Delivery by two Justices of the Peace (this may only be selected if you are ill ~~or if you, injured, or have a physical disability~~).

If applicant is other than early or absentee voter:

Name of applicant: _____

Address of applicant: _____

Relationship to early or absentee voter: _____

Organization, if applicable: _____

Date: _____ Signature of applicant: _____

~~(3)(2)~~ If the application is made by telephone or in writing, the information supplied ~~must~~ shall be in substantial conformance with the information requested on this form.

~~(b)~~ A person temporarily residing in a foreign country who is eligible to register to vote in this State, or a military service absentee voter who is eligible to register to vote in this State, may apply for early voter absentee ballots in the same manner and within the same time limits that apply for other early or absentee voters. An official federal postcard application shall suffice as a simultaneous request for an application for addition to the checklist and for an early voter absentee ballot, when properly submitted. Any other person also may make a simultaneous request for an application for addition to the checklist and for an early voter absentee ballot.

(c) Simultaneous voter registration.

(1) If a person makes a simultaneous request to register to vote and to apply for an early voter absentee ballot or if the request for an early voter absentee ballot is made for a person who is not yet registered and the request is received by the town clerk receives the request prior to the deadline for requesting to apply for early voter absentee ballots set forth in section 2531 of this chapter subchapter, the town clerk shall mail a blank voter registration application for addition to the checklist, together with a full set of early voter absentee ballots, to that person.

(2) An official federal postcard application shall suffice as a simultaneous application to register to vote and for an early voter absentee ballot.

(3)(A) All such voter registration applications for addition to the checklist that are returned to the town clerk before the close of the polls on election day shall be considered and acted upon by the board of civil authority before the ballots are counted.

(B) If the voter registration application is approved and the voter's name added to the checklist, the early voter absentee ballots cast by that voter shall be treated as other valid early voter absentee ballots.

(d) Application time frame.

(1) An application for an early voter absentee ballot shall be valid for the elections or the time frame specified by the applicant.

~~(e)(2)~~ A single application shall only be valid for any elections within the same calendar year.

~~(f)~~ A person residing in a State institution may apply for early voter absentee ballots in the same manner and within the same time limits that apply for other early or absentee voters.

(g)(e) Duplicate early voter absentee ballots.

(1)(A) The town clerk may, upon application, issue a duplicate early voter absentee ballot if the original ballot is not received by the voter within a reasonable period of time after mailing.

(B) The application may be made by a person entitled to apply for an early voter absentee ballot under subsection (a) of this section and shall be accompanied by a sworn statement affirming that the voter has not received the original ballot.

(2) If a duplicate early voter absentee ballot is issued and both the duplicate and original early voter absentee ballots are received before the close of the polls on election day, the ballot with the earlier postmark shall be counted.

(h)(f) Unauthorized applicants.

(1) Any person who applies for an early voter absentee ballot knowing the person is without authorization from the early or absentee voter shall be fined not more than \$100.00 per violation for the first three violations; not more than \$500.00 per violation for the fourth through ninth violations; and not more than \$1,000.00 per violation for the tenth and subsequent violations.

(2) The Attorney General or a State's Attorney, whenever he or she has reason to believe any person to be or to have been in violation of this provision, shall conduct a civil investigation in accordance with the procedures set forth in section 2904 of this title.

* * *

§ 2537. EARLY OR ABSENTEE VOTING IN THE TOWN CLERK'S OFFICE

(a)(1) A voter may, if he or she chooses, apply in person to the town clerk for the early voter absentee ballots and envelopes ~~rather than having them mailed as required by section 2539 of this subchapter.~~

(2) In this case, the clerk shall furnish the early voter absentee ballots and envelopes when a valid application has been made, or at such time as the clerk receives the ballots, whichever comes first.

(3) The voter may:

(A) mark his or her ballots, place them in the envelope, sign the certificate, and return the ballots in the envelope containing the certificate to the town clerk or an assistant town clerk without leaving the office of the town clerk; ~~or the voter may~~

(B) take the ballots and return them to the town clerk in the same manner as if the ballots had been received by mail.

(b) ~~No person, except~~ Except for justices of the peace as provided in section 2538 of this subchapter, ~~may a person shall not~~ take any ballot from the town clerk on behalf of any other person.

§ 2538. DELIVERY OF BALLOTS BY JUSTICES OF THE PEACE

(a)(1) In the case of persons who are early or absentee voters due to illness, injury, or ~~physical~~ disability, ballots shall be delivered in the following manner, unless the early or absentee voter has requested pursuant to section 2539 of this ~~title~~ subchapter that the early voter absentee ballots be mailed or electronically delivered.

(2) Not later than three days prior to the election, the board of civil authority or, upon request of the board, the town clerk, shall designate in pairs justices of the peace in numbers sufficient to deliver early voter absentee ballots to the applicants for early voter absentee ballots who have stated in their applications that they are unable to vote in person at the polling place due to illness, injury, or ~~physical~~ disability ~~but who have not requested in their applications that early voter absentee ballots be mailed to them~~. ~~No~~ A pair shall not consist of two justices from the same political party.

(3) If there shall not be available a sufficient number of justices to make up the required number of pairs, a member of each remaining pair shall be designated by the board, to be selected from lists of registered voters submitted by the chairs of the town committees of political parties, and from among registered voters who in written application to the board state that they are not affiliated with any political party.

(4) ~~No~~ A candidate or spouse, parent, or child of a candidate shall not be eligible to perform the duties prescribed by this section unless the candidate involved is not disqualified by section 2456 of this ~~title~~ chapter from serving as an election official. ~~This shall not prevent a candidate for district office from serving as a justice in another district.~~

(5) The compensation of justices and voters designated under this subsection shall be fixed by the board of civil authority and shall be paid by the town.

(6) The justices may, but shall not be required to, deliver ballots outside the town.

(b)(1) The town clerk shall divide the list of applicants who have an illness, injury, or ~~physical~~ disability into approximately as many equal parts as there are pairs of justices so designated, having regard to the several parts of the town in which the applicants may be found.

(2) As soon as early voter absentee ballots are available, the clerk shall deliver to each pair of justices one part of the list, together with early voter absentee ballots and envelopes for each applicant.

(3) When justices receive ballots and envelopes prior to election day, they shall receive only the ballots and envelopes they are assigned to deliver on that day.

(c)(1) Each pair of justices on the days they are assigned to deliver the ballots and envelopes shall call upon each of the early or absentee voters whose name appears on the part of the list furnished to them and shall deliver early voter absentee ballots and envelopes to each early or absentee voter.

(2) The early or absentee voter shall then proceed to mark the ballots alone or in the presence of the justices, but without exhibiting them to the justices or to any other person, except that when the early or absentee voter is blind or physically unable to mark his or her ~~ballot~~ ballots, they may be marked by one of the justices in full view of the other.

§ 2539. MAILING DELIVERY OF EARLY VOTER ABSENTEE
BALLOTS; ~~VOTERS WHO ARE PERMANENTLY DISABLED~~

(a) Default; town office or mail.

(1) Unless Except as provided in subsections (b) and (c) of this section, unless the early or absentee voter votes in the town clerk's office as set forth in section 2537 of this subchapter, or unless the justices are to deliver the early voter absentee ballots to the early or absentee voter, the town clerk shall provide to the early or absentee voter who comes to the town clerk's office a complete set of early voter absentee ballots or mail a complete set of early voter absentee ballots to each early or absentee voter for whom a valid application has been filed.

(2) The early voter absentee ballots shall be mailed forthwith upon the filing of a valid application, or upon the town clerk's receipt of the necessary ballots, whichever is later.

(b) Voters who are ill, injured, or have a disability. In the case of persons who are early or absentee voters due to illness, injury, or ~~physical~~ disability, if the voter or authorized person requests in his or her application or otherwise that early voter absentee ballots be mailed ~~rather than delivered by justices of the peace~~ or electronically delivered, the town clerk shall mail or electronically deliver the ballots; otherwise the ballots shall be delivered to ~~such voters the voter~~ by justices of the peace as set forth in section 2538 of this subchapter. ~~In the case of all other early or absentee voters, the town clerk shall mail the early voter absentee ballots, unless the voter chooses to apply and vote in person at the town clerk's office.~~

(c) Military or overseas voters.

(1) Early voter absentee ballots ~~to~~ for military or overseas voters shall be sent air mail, first class, postpaid when such service is available, or they may be ~~sent by email~~ electronically delivered when requested by the voter.

(2)(A) The town clerk's office shall be open on the 46th day before any election that includes a federal office and the town clerk shall send on or before that day all absentee ballots to any military or overseas voter who requested an early voter absentee ballot on or before that day.

(B) On that day the town clerk shall complete any reporting requirements and any other responsibilities regarding the mailing of early voter absentee ballots to military or overseas voters, as directed by the Secretary of State.

§ 2540. INSTRUCTIONS TO BE SENT WITH BALLOTS

(a) The town clerk shall send with all early voter absentee ballots and envelopes printed instructions, which may be included on the envelope, in substantially the following form:

INSTRUCTIONS FOR EARLY OR ABSENTEE VOTERS

1. Mark the ballots.
2. Place them in this envelope.
3. Fill out and sign the certificate on the envelope.
4. Mail or deliver the envelope containing the ballots to the town clerk of the town where you are a registered voter in time to arrive not later than election day.

Note: If these ballots have been brought to you personally by two justices of the peace because of your illness, injury or ~~physical~~ disability, just return them to the justices after you have signed the envelope. **YOU HAVE THE RIGHT TO MARK YOUR BALLOTS IN PRIVATE** - but if you ask for help in filling out the ballots, they will give it to you.

BE SURE TO FILL OUT AND SIGN THE CERTIFICATE ON THIS ENVELOPE OR YOUR VOTE WILL NOT COUNT!

(b) In the case of early absentee voting in a primary, the instructions shall also include appropriate instructions prepared by the Secretary of State for separating and depositing unvoted ballots in a separate envelope provided and clearly marked for that purpose.

§ 2541. MARKING OF BALLOTS

(a) An early or absentee voter to whom ballots, envelopes, and instructions are mailed shall mark the ballots in accordance with the instructions.

~~(b) When an early or absentee voter is blind or is physically unable to go to the polls to vote in person or to mark his or her ballots, they may be marked by one of the officers who delivers the ballots, in the presence of the other officer. A person who gives assistance to a voter in the marking or registering of ballots shall not in any way divulge any information regarding the choice of the voter or the manner in which the voter's ballot was cast.~~

(c) If an early or absentee voter makes an error in marking a ballot, the voter may return that ballot by mail or in person to the town clerk and receive another ballot, consistent with the provisions of section 2568 of this ~~title~~ chapter.

* * *

§ 2546b. EARLY VOTING IN TOWN CLERK'S OFFICE; DEPOSIT INTO VOTE TABULATOR

(a)(1) A board of civil authority may vote to permit its town's registered early or absentee voters to vote in the town clerk's office in the same manner as those voting on election day by marking their early voter absentee ballots and depositing them into a vote tabulator.

(2) If a board of civil authority votes to permit early voting as described in subdivision (1) of this subsection, the town's process for conducting this early voting shall conform to the provisions of this section and to guidance that the Secretary of State shall adopt for this purpose.

(b)(1) During business hours in the town clerk's office, the vote tabulator and ballot bin shall be in a secured area accessible only to election officials and voters. The vote tabulator unit shall be secured with an identifiable seal and the ballot box containing voted ballots shall remain locked at all times and secured with an identifiable seal. Neither seal shall be broken prior to the time of closing the polls on election day.

(2) Once early voting has commenced in the town clerk's office, the town clerk or designee shall certify each day in a record prepared for this purpose that the seals on the vote tabulator and ballot box are intact.

(3) When an election official is not present or at times other than business hours, the sealed vote tabulator and ballot box shall be secured in the town clerk's office vault.

(4) The town clerk shall maintain a record of each early or absentee voter who voted in person in accordance with this section.

(c) On the day of the election:

(1) The sealed vote tabulator and sealed ballot boxes shall be transferred to the polling place on election day by two election officials and shall not be opened until the polls have closed on election day.

(2) When the vote tabulator is turned on at the polling place, the town clerk shall verify that the number of ballots that the vote tabulator displays as having been counted matches the number of voters who deposited their early voter absentee ballots in the vote tabulator in accordance with this section and any early voter absentee ballots that were processed and deposited in the vote tabulator under section 2546a of this subchapter.

(3) All early voter absentee ballots shall be commingled with those voted at the polls on election day prior to being examined for the purpose of identifying write-in votes.

§ 2547. DEFECTIVE BALLOTS

(a) If upon examination by the election officials it shall appear that any of the following defects is present, either the ballot or the unopened certificate envelope shall be marked “defective” and the ballot shall not be counted:

(1) the identity of the early or absentee voter cannot be determined;

(2) the early or absentee voter is not legally qualified to vote;

~~(2)~~(3) the early or absentee voter has voted in person or previously returned a ballot in the same election;

~~(3) the affidavit on the certificate envelope is not completed;~~

(4) the certificate is not signed;

(5) the voted ballot is not in the certificate envelope; or

(6) in the case of a primary vote, the early or absentee voter has failed to return the unvoted primary ballots.

(b) Each defective ballot or unopened certificate envelope shall be:

(1) affixed with a note from the presiding officer indicating the reason it was determined to be defective;

(2) placed with other such defective ballots in an envelope marked “Defective Ballots - Voter Checked Off Checklist - Do Not Count”; and

(3) returned in that envelope to the town clerk in the manner prescribed by section 2590 of this title chapter.

(c) The provisions of this section shall be indicated prominently in the early or absentee voter material prepared by the Secretary of State.

* * *

* * * Process of Voting; Count and Return of Votes * * *

Sec. 13. 17 V.S.A. § 2568 is amended to read:

§ 2568. REMOVING BALLOTS FROM POLLING PLACE;
REPLACEMENT, ~~BLANK,~~ AND UNUSED BALLOTS

(a) Removing ballots from polling place. A person shall not take or remove a ballot from the polling place before the close of the polls.

(b) Replacement ballots.

* * *

(c) Unused ballots. Ballots originally delivered to the presiding officer that remain undistributed to the voters shall be preserved and returned to the town clerks, and ~~the clerk shall preserve them in such condition, unless called for by some authority entitled to demand and receive them. After 90 days from the date the election is held~~ following the election, they may be destroyed or distributed by the town clerk for educational purposes or for any other purpose the town clerk deems appropriate.

Sec. 14. 17 V.S.A. § 2587 is amended to read:

§ 2587. RULES FOR COUNTING VOTES

* * *

(e)(1) ~~In~~ Except as provided in this subsection, in the case of “write-in” votes, the act of writing in the name of a candidate, or pasting a label containing a candidate’s name upon the ballot, without other indications of the voter’s intent, shall constitute a vote for that candidate, even though the voter did not fill in the square or oval after the name.

(2)(A) A vote for a write-in candidate shall be counted as an “undeclared write-in” unless the write-in candidate filed with the Secretary of State not later than 5:00 p.m. on the Friday preceding the general election a form consenting to candidacy for that office. The consent form shall set forth the name of the candidate, the name of the office for which he or she consents to be a candidate, the candidate’s town of residence, and his or her correct mailing address.

(B) The Secretary of State shall prepare and furnish forms for this purpose.

(3) The election officials counting ballots and tallying results shall only list every person those write-in candidates who receives received a “write-in” vote and who complied with subdivision (2) of this subsection, and the number of votes received.

(A) On each tally sheet, the counters shall add together the names of candidates that are clearly the same person, even though a nickname or last name is used.

(B) Names of fictitious or deceased persons shall not be listed and shall be recorded on the tally sheet as a blank vote.

* * *

* * * Recounts * * *

Sec. 15. 17 V.S.A. § 2601 is amended to read:

§ 2601. RECOUNT THRESHOLD

(a)(1) In an election for federal office, statewide office, county office, or State Senator, if the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is two percent or less of the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

(2) In an election for State Representative, if the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is five percent or less of the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

(b) In the case of a recount for a local election, the threshold and procedures for conducting the recount shall be as provided in chapter 55, subchapter 3 of this title.

Sec. 16. 17 V.S.A. § 2602k is amended to read:

§ 2602k. RECOUNT TIES

(a)(1) If a recount of a primary election results in a tie, the provisions of subsection 2369(b) of this title shall apply.

(2) If a recount of a public question results in a tie, a runoff election shall not be held, and the question shall be certified not to have passed.

(3) If the a recount of a general election results in a tie, the provisions of this section shall apply, and the court shall order a runoff election to be held, within three weeks of the recount, on a date set by the court.

(b) The only candidates who shall appear on the ballot at the runoff election shall be those who tied in the previous election.

(c) The runoff election shall be considered a separate election for the purpose of voter registration under chapter 43 of this title.

~~(d) If the recount confirms a tie as to any public question, a runoff election shall not be held, and the question shall be certified not to have passed. [Repealed.]~~

(e) Warnings for a runoff election shall be posted as required by subchapter 5 of this chapter, except that the warnings shall be posted not less than 10 days before the runoff election.

(f) The conduct of a runoff election shall be as provided in this chapter for general elections.

* * * Special Election for Congressional Vacancies * * *

Sec. 17. 17 V.S.A. § 2621 is amended to read:

§ 2621. VACANCY IN OFFICE OF U.S. SENATOR OR REPRESENTATIVE

(a) If a vacancy occurs in the office of U.S. Senator or U.S. Representative, the Governor shall call a special election to fill the vacancy. His or her proclamation shall specify a day for the special election and a day for a special primary, pursuant to section 2352 of this title.

(b) The special election shall be held not more than ~~three~~ six months from the date the vacancy occurs, except that if the vacancy occurs within six months of a general election, the special election may be held the same day as the general election provided the ballots for the special election are able to be distributed by the deadline set forth in section 2479 of this title.

* * * Local Elections * * *

Sec. 18. 17 V.S.A. § 2681 is amended to read:

§ 2681. NOMINATIONS; PETITIONS; CONSENTS

(a)(1)(A) Nominations of the municipal officers shall be by petition. The petition shall be filed with the municipal clerk, together with the endorsement, if any, of any party or parties in accordance with the provisions of this title, not later than 5:00 p.m. on the sixth Monday preceding the day of the election, which shall be the filing deadline.

* * *

~~(3) A petition shall contain the name of only one candidate, and the candidate's name shall appear on the petition as it does on the voter checklist.~~

~~A voter shall not sign more than one petition for the same office, unless more than one nomination is to be made, in which case the voter may sign as many petitions as there are nominations to be made for the same office.~~

* * *

* * * Voting on Town Manager Form of Governance * * *

Sec. 19. 24 V.S.A. chapter 37 is amended to read:

CHAPTER 37. TOWN, CITY, OR VILLAGE MANAGERS

* * *

§ 1241. PETITION; WARNING

~~When voters, in number equal to five percent of the legal registered voters in town, petition the selectboard therefor in writing to adopt or rescind the town manager form of governance, the warning for the annual or special meeting which that shall be called upon such petition shall contain an article in substantially the following form set forth in section 1243 of this chapter: “To see if the town will vote to take advantage of the provisions of chapter 37 of Title 24 of the Vermont Statutes Annotated and authorize the selectboard to employ a town manager.”~~

* * *

§ 1243. METHOD OF VOTING

~~When the question of the adoption or rejection of A town may vote at an annual or special meeting to adopt or rescind the provisions of this chapter is submitted to a meeting wherein the Australian ballot system is used for the election of officers, there. A vote on the question shall be printed upon the ballots below the list of candidates the following question in substantially the following form:~~

~~““Will Shall the [town name] vote to take advantage of [adopt/rescind] the town manager form of governance in accordance with the provisions of chapter 37 of Title 24 of the Vermont Statutes Annotated and authorize the selectboard to employ a town manager?”~~

~~Yes — No~~

~~And the voter shall make a cross or X in the blank space against the answer he or she desires to give concerning such question. The ballots shall be counted forthwith by the board of civil authority and the result announced by the presiding officer.~~

* * *

* * * Campaign Finance; Reporting Dates * * *

Sec. 20. 17 V.S.A. § 2964 is amended to read:

§ 2964. CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE,
THE GENERAL ASSEMBLY, AND COUNTY OFFICE;
POLITICAL COMMITTEES; POLITICAL PARTIES

(a)(1) Each candidate for State office, the General Assembly, or a two-year-term county office who has rolled over any amount of surplus into his or her new campaign or who has made expenditures or accepted contributions of \$500.00 or more during the two-year general election cycle and, except as provided in subsection (b) of this section, each political committee that has not filed a final report pursuant to subsection 2965(b) of this chapter, and each political party required to register under section 2923 of this chapter shall file with the Secretary of State campaign finance reports as follows:

(A) in the first year of the two-year general election cycle, on July 15 1; and

(B) in the second year of the two-year general election cycle:

(i) on March 15;

(ii) on July 15 1 and August 15 1;

(iii) on September 1;

(iv) on October 1, October 15, and the Friday before the general election; and

(v) two weeks after the general election.

(2) Each candidate for a four-year-term county office who has rolled over any amount of surplus into his or her new campaign or who has made expenditures or accepted contributions of \$500.00 or more during the four-year general election cycle shall file with the Secretary of State campaign finance reports as follows:

(A) in the first three years of the four-year general election cycle, on July 15 1; and

(B) in the fourth year of the four-year general election cycle:

(i) on March 15;

(ii) on July 15 1 and August 15 1;

(iii) on September 1;

(iv) on October 1, October 15, and the Friday before the general election; and

(v) two weeks after the general election.

* * *

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

This act shall take effect on July 1, 2019, except that:

(1) this section and Sec. 20, 17 V.S.A. § 2964 (campaign finance reports), shall take effect on passage; and

(2) in Sec. 12, 17 V.S.A. chapter 51, subchapter 6 (early or absentee voters), § 2546b (early voting in town clerk's office; deposit into vote tabulator) shall take effect on July 1, 2020, except that the Secretary of State shall adopt the guidelines described in subdivision (a)(2) of that section on or before January 1, 2020.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Government Operations?, Senators Collamore, Bray, Clarkson, Pollina and White moved to amend the recommendation of the Committee on Government Operations as follows:

First: In Sec. 8, 17 V.S.A. chapter 49 (nominations), by striking out § 2370 (write-in candidates) in its entirety.

Second: By striking out Sec. 14, 17 V.S.A. § 2587 (rules for counting votes) in its entirety and inserting in lieu thereof the following: [Deleted.]

Which was agreed to.

Thereupon, the recommendation of amendment of the Committee on Government Operations, as amended, was agreed to and third reading of the bill was ordered.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 12. An act relating to the State Energy Management Program.

S. 83. An act relating to prohibiting agreements that prevent an employee from working for the employer following the settlement of a discrimination claim.

S. 108. An act relating to employee misclassification.

S. 154. An act relating to miscellaneous banking provisions.

Third Reading Ordered

S. 68.

Senator Clarkson, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to Indigenous Peoples' Day.

Reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 7.

Senator Lyons, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to the evaluation of social service integration with accountable care organizations.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. REPORT; INTEGRATION OF SOCIAL SERVICES

On or before November 1, 2020, the Agency of Human Services, in collaboration with the Green Mountain Care Board, shall submit to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations and on Health and Welfare a plan to coordinate the financing and delivery of Medicaid Behavioral Health Services and Medicaid Home- and Community-Based Services with the All-Payer Financial Target Services.

Sec. 2. REPORT; EVALUATION OF SOCIAL SERVICE INTEGRATION WITH ACCOUNTABLE CARE ORGANIZATIONS

On or before September 1, 2019, the Green Mountain Care Board shall submit a report to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare evaluating the manner and degree to which social services, including services provided by the parent-child center network; designated and specialized service agencies; and home health and hospice agencies are integrated into accountable care

organizations (ACOs) certified pursuant to 18 V.S.A. § 9382. The evaluation shall address:

(1) the number of social service providers receiving payments through one or more ACOs, if any, and for which services;

(2) the extent to which any existing relationships between social service providers and one or more ACOs address childhood trauma or resilience building; and

(3) recommendations to enhance integration between social service providers and ACOs, if appropriate.

Sec. 3. 33 V.S.A. § 3403 is amended to read;

§ 3403. DIRECTOR OF TRAUMA PREVENTION AND RESILIENCE
DEVELOPMENT

* * *

(b) The Director shall:

(1) provide advice and support to the Secretary of Human Services and facilitate communication and coordination among the Agency's departments with regard to childhood adversity, toxic stress, and the promotion of resilience building;

(2) collaborate with both community and State partners, including the Agency of Education and the Judiciary, to build consistency between trauma-informed systems that address medical and social service needs and serve as a conduit between providers and the public;

(3) provide support for and dissemination of educational materials pertaining to childhood adversity, toxic stress, and the promotion of resilience building, including to postsecondary institutions within Vermont's State College System and the University of Vermont and State Agricultural College;

(4) coordinate with partners inside and outside State government, including the Child and Family Trauma Work Group;

(5) evaluate the statewide system, including the work of the Agency and the Agency's grantees and community contractors, that addresses resilience and trauma-prevention;

(6) evaluate, in collaboration with the Department for Children and Families and providers addressing childhood adversity prevention and resilience building services, strategies for linking pediatric primary care with the parent-child center network and other social services; ~~and~~

(7) coordinate the training of all Agency employees on childhood adversity, toxic stress, resilience building, and the Agency's Trauma-Informed System of Care policy and post training opportunities for child care providers, afterschool program providers, educators, and health care providers on the Agency's website; and

(8) serve as a resource in ensuring new models used by community social service providers are aligned with the State's goals for trauma-informed prevention and resilience.

Sec. 4. REPORT; SOCIAL SERVICE PROVIDER AND PEDIATRIC PRIMARY CARE PARTNERSHIP

On or before October 1, 2019, the Director of Trauma Prevention and Resilience Development established pursuant to 33 V.S.A. § 3403 and the Director of Maternal and Child Health shall submit a report to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare, in consultation with stakeholders, assessing:

(1) the model in which a social service provider is embedded within a pediatric primary care practice, including recommendations for the further development and expansion of this model in coordination with any proposals for reform resulting from the CHINS review conducted pursuant to 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. C.106; and

(2) the Strong Families Sustained Home Visiting Programs.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

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

An act relating to social service integration with Vermont's health care system.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Health and Welfare?, Senator Lyons moved to amend the recommendation of the Committee on Government Operations as follows:

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. REPORT; INTEGRATION OF SOCIAL SERVICES

(a) On or before November 1, 2020, the Agency of Human Services, in collaboration with the Green Mountain Care Board, shall submit to the House

Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations and on Health and Welfare a plan to coordinate the financing and delivery of Medicaid Behavioral Health Services and Medicaid Home- and Community-Based Services with the All-Payer Financial Target Services.

(b) On or before January 15, 2020, the Agency shall provide an interim status presentation to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare, including an update on the Agency's progress, the process for the plan's development, and the identities of any stakeholders with whom the Agency has consulted.

Second: By inserting a new section to be numbered Sec. 2a to read as follows:

Sec. 2a. 18 V.S.A. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

* * *

(b)(1) The Green Mountain Care Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for reviewing, modifying, and approving the budgets of ACOs with 10,000 or more attributed lives in Vermont. To the extent permitted under federal law, the Board shall ensure the rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In its review, the Board shall review and consider:

* * *

(N) the effect, if any, of Medicaid reimbursement rates on the rates for other payers; ~~and~~

(O) the extent to which the ACO makes its costs transparent and easy to understand so that patients are aware of the costs of the health care services they receive; and

(P) The extent to which the ACO provides resources to primary care practices to ensure that care coordination and community services, such as mental health and substance use disorder counseling that are provided by community health teams are available to patients without imposing unreasonable burdens on primary care providers or on ACO member organizations.

* * *

Which was agreed to.

Thereupon, the recommendation of amendment of the Committee on Health and Welfare, as amended, was agreed to and third reading of the bill was ordered.

Bills Amended; Third Readings Ordered

S. 30.

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to the regulation of hydrofluorocarbons.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 586 is added to read:

§ 586. REGULATION OF HYDROFLUOROCARBONS

(a) As used in this section:

(1) “Class I substance” and “class II substance” mean those substances listed in the 42 U.S.C. § 7671a, as it read on November 15, 1990 and Appendix A or B of Subpart A of 40 C.F.R. Part 82, as those read on January 3, 2017.

(2) “Hydrofluorocarbon” means a class of greenhouse gases that are saturated organic compounds containing hydrogen, fluorine, and carbon and are used primarily in refrigeration, air-conditioning equipment, foam expansion agents, aerosol propellants, solvents, and fire suppressants.

(3) “Residential consumer refrigeration product” has the same meaning as in Section 430.2 of Subpart A of 10 C.F.R. Part 430.

(4) “Substitute” means a chemical, product substitute, or alternative manufacturing process, whether new or retrofit, that is used to perform a function previously performed by a class I substance or class II substance and any substitute subsequently adopted to perform that function, including hydrofluorocarbons.

(b)(1) The use of class I substances and class II substances as set forth in 42 U.S.C. §§ 7671a and 7671k, as those read on November 15, 1990, or any substitute as set forth in Appendix U and Appendix V of Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, is prohibited, except as otherwise provided by in subdivision (3) of this section.

(2) If the U.S. Environmental Protection Agency approves a previously prohibited hydrofluorocarbon blend for foam blowing pursuant to the Significant New Alternatives Policy Program, adopted pursuant to

Section 7671k of the federal Clean Air Act (42 U.S.C. § 7401 et seq.), the Secretary shall expeditiously adopt rules pursuant to this section.

(3)(A) Prohibitions on residential consumer refrigeration products, except compact and built-in residential consumer refrigeration products, shall take effect January 1, 2022.

(B) Prohibitions on built-in residential consumer refrigeration products shall take effect on January 1, 2023.

(c) The Secretary may adopt rules that include any of the following:

(1) The modification of the deadlines of a prohibition established pursuant to this subsection if the Secretary determines that the modified deadline meets both of the following:

(A) reduces the overall risk to human health or the environment; and

(B) reflects the earliest date that a substitute is currently or potentially available.

(2) The prohibition on the use of any substitute if the Secretary determines that the prohibition meets both of the following criteria:

(A) reduces the overall risk to human health or the environment; and

(B) a lower-risk substitute is currently or potentially available.

(3) The creation of a list of approved substitutes, use conditions, or use limits, if any, and the addition or removal of substitutes, use conditions, or use limits to or from the list of approved substitutes if the Secretary determines those substitutes reduce the overall risk to human health and the environment.

(d) A person shall not offer any equipment or product for sale, lease, rent, or otherwise cause any equipment or product to enter into commerce in Vermont if that equipment or product uses or will use a substitute in a manner inconsistent with any of the following:

(1) any prohibitions in subsection (b) of this section;

(2) any prohibitions, use conditions, or use limits in subsection (c) of this section or rule; or

(3) any other applicable laws.

Sec. 2. ADOPTION OF RULES AND REPORT

(a) On or before July 1, 2020, the Secretary of Natural Resources shall file with the Secretary of State proposed rules to implement 10 V.S.A. § 586. The rules shall establish a schedule to phase down the use of hydrofluorocarbons to meet the goal of a 40 percent reduction from the 2013 level of use by 2030.

(b) On or before January 15, 2020, the Secretary of Natural Resources shall submit a report to the Senate Committee on Natural Resources and Energy and the House Committee on Energy and Technology on progress in filing proposed rules to implement 10 V.S.A. § 586 and any delays in such rulemaking.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 31.

Senator Cummings, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to requiring hospitals to provide certain financial information to patients and prohibiting surprise billing for emergency medical services.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 1852 is amended to read:

§ 1852. PATIENTS' BILL OF RIGHTS; ADOPTION

(a) The General Assembly hereby adopts the "Bill of Rights for Hospital Patients" as follows:

* * *

(12) The patient has the right to receive an itemized, detailed, and understandable explanation of charges, regardless of the source of payment, and to be provided with information about:

- (A) health care prices;
- (B) financial assistance; and
- (C) billing and collections practices.

* * *

Sec. 2. PRICE TRANSPARENCY; BILLING PROCESSES; REPORT

(a) Building on its efforts pursuant to 2015 Acts and Resolves No. 54, Sec. 21, the Green Mountain Care Board, in consultation with interested

stakeholders, shall examine health care price transparency initiatives in other states to identify possible options for making applicable health care pricing information readily available to consumers of health care services in this State to help inform their health care decision making.

(b) The Green Mountain Care Board, in consultation with interested stakeholders, shall consider and provide recommendations regarding potential financial procedures for health care services that would coordinate processes between hospitals and payers without requiring the patient's involvement and would provide patients who receive hospital services with a single, comprehensive bill that reflects the patient's entire, actual financial obligation.

(c) On or before November 15, 2019, the Green Mountain Care Board shall provide its findings and recommendations pursuant to subsections (a) and (b) of this section to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

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

An act relating to informed health care financial decision making.

And that when so amended the bill ought to pass.

Senator Ashe Assumes the Chair

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 53.

Senator Lyons, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to increasing the proportion of health care spending allocated to primary care.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PRIMARY CARE; FINDINGS

The General Assembly finds that:

(1) Primary care, especially care that incorporates mental health and substance use disorder services, is critical for sustaining a productive community.

(2) Primary care provides a setting in which patients can present a wide range of health problems for appropriate attention and, in most cases, can expect that their problems will be resolved without referral.

(3) Primary care providers and practices assist patients in navigating the health care system, including by providing referrals to other health care providers for appropriate services.

(4) Primary care providers and practices facilitate an ongoing relationship between patients and clinicians and foster participation by patients in shared decision-making about their health and their care.

(5) Primary care provides opportunities for disease prevention, health promotion, and early detection of health conditions.

(6) Primary care helps build bridges between personal health care services and patients' families and communities that can assist in meeting patients' health care needs.

(7) In order to maximize the benefits of comprehensive primary care, it is essential to maintain consistent, targeted investment over time.

Sec. 2. DEFINITION OF PRIMARY CARE; SPENDING ON PRIMARY CARE; REPORTS

(a) The purpose of this section is to determine the percentage of health care spending that is currently allocated to primary care in order to target any appropriate increases to that percentage.

(b) The Green Mountain Care Board and the Department of Vermont Health Access shall jointly identify, in consultation with health insurers, hospitals, federally qualified health centers, accountable care organizations, primary care providers, other health care professionals, and other interested stakeholders:

(1) the categories of health care professionals who should be considered primary care providers when the services they deliver primarily constitute primary care services, as determined pursuant to subdivision (2) of this subsection;

(2) the specific procedure codes that should be considered primary care services when billed by a primary care provider, as determined pursuant to subdivision (1) of this subsection;

(3) the categories of non-claims-based payments to primary care providers and practices, such as payments to Blueprint for Health community health teams, bundled payments, and value-based payments, that should be included when determining the total amount spent on primary care; and

(4) the ways in which these categories and codes are consistent with or differ from the categories and codes of direct and indirect primary care expenditures used by other states to determine their primary care spending and used to determine any national estimates of primary care spending.

(c)(1) Using the categories and codes determined pursuant to subsection (b) of this section, the Green Mountain Care Board and the Department of Vermont Health Access shall determine the percentage of total spending that was allocated to primary care by each of the following in the most recent complete calendar year for which information is available:

(A) each health insurer with 500 or more covered lives for comprehensive, major medical health insurance in this State;

(B) Vermont Medicaid;

(C) the State Employees' Health Benefit Plan;

(D) health benefit plans offered pursuant to 24 V.S.A. § 4947 to entities providing educational services; and

(E) the entire Vermont health care system, to the extent data are available.

(2)(A) The Green Mountain Care Board shall use information from the Vermont Health Care Uniform Reporting and Evaluation System (VHCURES) to the extent available in determining the percentages required in subdivision (1) of this subsection.

(B) Each entity listed in subdivisions (1)(A)–(D) of this subsection shall provide to the Green Mountain Care Board the entity's non-claims-based primary care expenditures for the most recent complete calendar year for which information is available.

(C) The entities listed in subdivisions (1)(A)–(D) of this subsection, and any other entity with relevant data, shall provide pertinent information in response to all reasonable requests from the Green Mountain Care Board and the Department of Vermont Health Access.

(d) On or before January 15, 2020, the Green Mountain Care Board and the Department of Vermont Health Access shall report to the House Committee on Health Care, to the Senate Committees on Health and Welfare and on Finance, and to each entity listed in subdivisions (c)(1)(A)–(D) of this section:

(1) the percentage of total health care spending that the Board and the Department determined each entity and, to the extent data are available, the health care system as a whole, allocated to primary care pursuant to subsection (c) of this section;

(2) a comparison between the percentages described in subdivision (1) of this subsection and available state and national benchmarks of spending on primary care, including states with demographics comparable to Vermont's;

(3) a comparison between the percentages described in subdivision (1) of this subsection and existing projections of changes in primary care spending in Vermont through 2022 under the all-payer model, as defined in 18 V.S.A. § 9551; and

(4) an analysis of the potential impacts of different methods of achieving increases in primary care spending in future years on:

(A) health outcomes;

(B) patient satisfaction;

(C) patient access to and the availability of primary, specialty, mental health, and tertiary care services; and

(D) Vermont's progress in implementing the all-payer model.

Sec. 3. 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 determining the proportion of health care spending allocated to primary care.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 105.

Senator Nitka, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to miscellaneous judiciary procedures.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 163 is amended to read:

§ 163. JUVENILE COURT DIVERSION PROJECT

* * *

(c) All diversion projects receiving financial assistance from the Attorney General shall adhere to the following provisions:

* * *

(4) Each State's Attorney, in cooperation with the Attorney General and the diversion project program, shall develop clear criteria for deciding what types of offenses and offenders will be eligible for diversion; however, the State's Attorney shall retain final discretion over the referral of each case for diversion. The provisions of 33 V.S.A. § 5225(c) and § 5280(e) shall apply.

* * *

(j) Notwithstanding subdivision (c)(1) of this section, the diversion program may accept cases pursuant to 33 V.S.A. § 5225 and § 5280.

Sec. 2. 3 V.S.A. § 164 is amended to read:

§ 5169. ADULT COURT DIVERSION PROGRAM

* * *

(e) All adult court diversion programs receiving financial assistance from the Attorney General shall adhere to the following provisions:

(1) The diversion program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. The matter shall become confidential when notice is provided to the court, except that for persons who are subject to conditions of release imposed pursuant to 13 V.S.A. § 7554, the matter shall become confidential upon the successful completion of diversion. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall provide the person with the opportunity to participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the program would not serve the ends of justice. If the prosecuting attorney refers a case to diversion, the prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise, files held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

(A) the diversion program declines to accept the case;

- (B) the person declines to participate in diversion;
- (C) the diversion program accepts the case, but the person does not successfully complete diversion; or
- (D) the prosecuting attorney recalls the referral to diversion.

* * *

(m) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases pursuant to 33 V.S.A. §§ 5225 and 5280.

Sec. 3. 4 V.S.A. § 27b is added to read:

§ 27b. ELECTRONICALLY FILED VERIFIED DOCUMENTS

(a) A registered electronic filer in the Judiciary's electronic document filing system may file any document that would otherwise require the approval or verification of a notary by filing the document with the following language inserted above the signature and date:

I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I will be subject to the penalty of perjury.

(b) A document filed pursuant to subsection (a) of this section shall not require the approval or verification of a notary.

(c) This section shall not apply to an affidavit in support of a search warrant application or to an application for a nontestimonial identification order.

Sec. 4. 13 V.S.A. § 2904 is amended to read:

§ 2904. FALSE SWEARING; FALSE DECLARATION

(a) A person of whom an oath is required by law, who willfully swears falsely in regard to any matter or thing respecting which such oath is required, shall be guilty of perjury and punished as provided in section 2901 of this title.

(b) A person who declares, certifies, or verifies in a signed writing that a statement is true and is made under the pains and penalties of perjury, and who willfully makes a false statement in the declaration, certification, or verification, shall be guilty of perjury and punished as provided in section 2901 of this title.

Sec. 5. 13 V.S.A. § 11a is amended to read:

§ 11a. VIOLENT CAREER CRIMINALS

(a) The State may elect to seek the substitute penalty provided for in this section against a person who, after having been two times convicted within

~~this State of a felony crime of violence, or under the law of any other state, government, or country, of a crime which, if committed in this State would be a felony crime of violence, is convicted of a third felony crime of violence within this State.~~

~~(b) If the State seeks a substitute penalty for one of the offenses enumerated in subsection (d) of this section, it shall give notice to the person by filing an information seeking the penalty contained in this section.~~

~~(c) A person charged under this section shall be sentenced upon conviction of such third or subsequent offense to imprisonment up to and including life.~~

~~(d) As used in this section, "felony crime of violence" shall mean the following crimes:~~

~~(1) arson causing death as defined in section 501 of this title;~~

~~(2) assault and robbery with a dangerous weapon as defined in subsection 608(b) of this title;~~

~~(3) assault and robbery causing bodily injury as defined in subsection 608(c) of this title;~~

~~(4) aggravated assault as defined in section 1024 of this title;~~

~~(5) murder as defined in section 2301 of this title;~~

~~(6) manslaughter as defined in section 2304 of this title;~~

~~(7) kidnapping as defined in section 2405 of this title or its predecessor as it was defined in section 2401 of this title;~~

~~(8) maiming as defined in section 2701 of this title;~~

~~(9) sexual assault as defined in subdivision 3252(a)(1) or (2) of this title or its predecessor as it was defined in section 3201 of this title;~~

~~(10) aggravated sexual assault as defined in section 3253 of this title;~~

~~(11) first degree unlawful restraint as defined in section 2407 of this title;~~

~~(12) first degree aggravated domestic assault as defined in section 1043 of this title where the defendant causes serious bodily injury to another person;~~

~~(13) lewd or lascivious conduct with a child as defined in section 2602 of this title where the child is under the age of 13 years and the defendant is 18 years of age or older.~~

~~(e) Notwithstanding any other provision of law to the contrary, the court shall not place on probation or suspend the sentence of any person sentenced under this section. No person who receives a minimum sentence under this~~

~~section shall be eligible for early release or furlough until the expiration of the minimum sentence.~~

~~(f) For the purposes of this section, multiple convictions that arise out of the same criminal transaction are to be treated as one conviction. [Repealed.]~~

Sec. 6. 13 V.S.A. § 362 is amended to read:

§ 362. EXPOSING POISON ON THE LAND

A person who deposits any poison or substance poisonous to animals on his or her premises or on the ~~premise~~ premises or buildings of another, with the intent that it be taken by an animal, shall be in violation of subdivision 352(2) of this title. This section shall not apply to control of wild pests, protection of crops from insects, mice, and plant diseases, or the Department of Fish and Wildlife ~~and employees and agents of the State Forest Service~~ in control of destructive wild animals.

Sec. 7. 13 V.S.A. § 397 is amended to read:

§ 397. ADMINISTRATIVE PENALTY

In addition to the forfeiture of any award, premium, or trophy otherwise due, and in addition to other penalties provided by law, a person violating this chapter may be assessed an administrative penalty in an amount not to exceed \$1,000.00 by the Secretary. The Secretary shall utilize the provisions of 6 V.S.A. §§ 16 and 17 for purposes of assessing the penalty.

Sec. 8. 13 V.S.A. § 508 is amended to read:

§ 508. SETTING FIRES

A person who enters upon lands of another and sets a fire that causes damage shall be imprisoned not more than 60 days nor less than 30 days, or fined not more than \$100.00 nor less than \$10.00, or both. The provisions of this section shall not affect the provisions of ~~sections~~ section 507 ~~and 3906~~ of this title.

Sec. 9. 13 V.S.A. § 1501 is amended to read:

§ 1501. ESCAPE AND ATTEMPTS TO ESCAPE

(a) A person who, while in lawful custody:

(1) escapes or attempts to escape from any correctional facility or a local lockup shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both; or

(2) escapes or attempts to escape from an officer, if the person was in custody as a result of a felony, shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both; or if the person was in custody as a

result of a misdemeanor, shall be imprisoned for not more than two years, or fined not more than \$1,000.00, or both.

(b)(1) A person shall not, while in lawful custody:

(A) fail to return from work release to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with 28 V.S.A. § 753;

(B) fail to return from furlough to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with ~~28 V.S.A. § 808, 808a, 808b, or 808c~~ 28 V.S.A. § 808(a)(1)–(5);

(C) escape or attempt to escape while on release from a correctional facility to do work in the service of such facility or of the Department of Corrections in accordance with 28 V.S.A. § 758; or

(D) elope or attempt to elope from the Vermont Psychiatric Care Hospital or a participating hospital, when confined by court order pursuant to chapter 157 of this title, or when transferred there pursuant to 28 V.S.A. § 703 and while still serving a sentence.

(2) A person who violates this subsection shall be imprisoned for not more than five years or fined not more than \$1,000.00, or both.

(3) It shall not be a violation of subdivision of (1)(A), (1)(B), or (1)(C) of this subsection (b) if the person is on furlough status pursuant to 28 V.S.A. §§ 808(a)(6), 808(e), 808(f), 808a, 808b, or 808c.

(c) All sentences imposed under subsection (a) of this section shall be consecutive to any term or sentence being served at the time of the offense.

* * *

Sec. 10. 28 V.S.A. § 808e is added to read:

§ 808e. ABSCONDING FROM FURLOUGH; WARRANT

The Commissioner of Corrections may issue a warrant for the arrest of a person who has absconded from furlough status in violation of 28 V.S.A. §§ 808(a)(6), 808(e), 808(f), 808a, 808b, or 808c, requiring the person to be returned to a correctional facility. A person for whom an arrest warrant is issued pursuant to this section shall not earn credit toward service of his or her sentence for any days that the warrant is outstanding.

Sec. 11. 13 V.S.A. § 1504 is amended to read:

§ 1504. ~~PLACE OF CONFINEMENT CONSTRUED~~

~~The words “place of confinement” as used in sections 1502 and 1503 of this title shall not be construed to include the Weeks School. [Repealed.]~~

Sec. 12. 13 V.S.A. § 2901 is amended to read:

§ 2901. PUNISHMENT FOR PERJURY

A person who, being lawfully required to depose the truth in a proceeding in a court of justice or in a contested case before a State agency pursuant to 3 V.S.A. chapter 25, commits perjury shall be imprisoned not more than 15 years ~~and~~ or fined not more than \$10,000.00, or both.

Sec. 13. 13 V.S.A. § 2535 is amended to read;

§ 2535. GUARDIAN

A guardian who embezzles or fraudulently converts to his or her own use, money, obligations, securities, or other effects or property belonging to the ward person under guardianship ~~or the estate of the ward of whom he or she is guardian person under guardianship~~, shall be guilty of larceny and shall be imprisoned not more than 10 years or fined not more than \$1,000.00, or both.

Sec. 14. 13 V.S.A. § 3403 is amended to read:

§ 3403. MISPRISION OF TREASON

A person owing allegiance to this State, knowing such treason to have been committed, or knowing of the intent of a person to commit such treason, who does not, within 14 days from the time of having such knowledge, give information thereof to the Governor of the State, to one of the Justices of the Supreme Court, a Superior ~~or~~ Distriet judge, or a justice of the peace, shall be guilty of misprision of treason and shall be imprisoned not more than 10 years nor less than five years or fined not more than \$2,000.00, or both.

Sec. 15. 13 V.S.A. § 3485 is amended to read:

§ 3485. PENALTY WHEN OFFENSE IS TREASON

A person who commits an offense punishable under one of sections ~~3481-3484~~ 3482-3485 of this title, and such offense amounts to treason, shall be punished for treason in lieu of the penalty prescribed in such section.

Sec. 16. 13 V.S.A. § 5415 is amended to read:

§ 5415. ENFORCEMENT; SPECIAL INVESTIGATION UNITS

(a) Special investigation units, created pursuant to 24 V.S.A. § 1940, shall be responsible for the investigation of violations of this chapter’s Registry

requirements and are authorized to conduct in-person Registry compliance checks in a time, place, and manner it deems appropriate in furtherance of the purposes of this chapter. This section shall not be construed to prohibit local law enforcement from enforcing the provisions of this chapter.

(b) On or before November 1, 2019, and annually thereafter, local law enforcement agencies shall report to the Vermont Crime Information Center about any in-person Registry compliance checks that the agency has conducted during the preceding 12 months. The report shall include the total number of in-person compliance checks conducted during the 12-month period, the number of offenders who were in compliance, the number of offenders who were out of compliance, and the reasons for being out of compliance.

(c) ~~The department of public safety~~ Department of Public Safety shall report to the Senate and House Committees on Judiciary on or before December 15, 2009, and annually thereafter, regarding its efforts under this section.

Sec. 17. 13 V.S.A. § 7041 is amended to read:

§ 7041. DEFERRED SENTENCE

(a) Upon an adjudication of guilt and after the filing of a presentence investigation report, the court may defer sentencing and place the respondent on probation upon such terms and conditions as it may require if a written agreement concerning the deferring of sentence is entered into between the State's Attorney and the respondent and filed with the clerk of the court.

(b) Notwithstanding subsection (a) of this section, the court may defer sentencing and place the respondent on probation without a written agreement between the State's Attorney and the respondent if the following conditions are met:

(1) ~~the respondent is 28 years old or younger;~~ [Repealed.]

(2) the crime for which the respondent is being sentenced is not a listed crime as defined in subdivision 5301(7) of this title;

(3) the court orders a presentence investigation in accordance with the procedures set forth in V.R.C.P. Rule 32, unless the State's Attorney agrees to waive the presentence investigation;

(4) the court permits the victim to submit a written or oral statement concerning the consideration of deferment of sentence;

(5) the court reviews the presentence investigation and the victim's impact statement with the parties; and

(6) the court determines that deferring sentence is in the interests of justice.

* * *

Sec. 18. 13 V.S.A. § 7554c is amended to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

* * *

(b)(6) Any person charged with a criminal offense or who is the subject of a youthful offender petition pursuant to 33 V.S.A. § 5280, except those persons identified in subdivision (2) of this subsection, may choose to engage with a pretrial services coordinator.

* * *

Sec. 19. 14 V.S.A. § 1203 is amended to read:

§ 1203. LIMITATIONS ON PRESENTATION OF CLAIMS

(a) All claims against a decedent's estate ~~which~~ that arose before the death of the decedent, including claims of the State and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, except claims for the possession of or title to real estate and claims for injury to the person and damage to property suffered by the act or default of the deceased, if not barred earlier by other statute of limitations, are barred against the estate, the executor or administrator, and the heirs and devisees of the decedent, unless presented as follows:

(1) within four months after the date of the first publication of notice to creditors if notice is given in compliance with the Rules of Probate Procedure; provided, however, that claims barred by the nonclaim statute of the decedent's domicile before the first publication for claims in this State are also barred in this State;

* * *

Sec. 20. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 110.

Senator Hooker, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to data privacy and consumer protection.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PRIVACY AUDIT

On or before January 15, 2020, the Chief Data Officer and the Chief Records Officer shall submit to the House Committees on Commerce and Economic Development and on Government Operations and to the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations a report concerning the three branches of State government and the management of personally identifiable information, as defined in 9 V.S.A. § 2430(9), as well as street addresses, e-mail addresses, telephone numbers, and demographic information, specifically:

(1) federal and State laws, rules, and regulations that:

(A) exempt personally identifiable information from public inspection and copying pursuant to 1 V.S.A. § 317;

(B) require personally identifiable information to be produced or acquired in the course of State government business;

(C) specify fees for obtaining personally identifiable information produced or acquired in the course of State government business; and

(D) require personally identifiable information to be shared between branches of State government or between branches and non-state entities, including municipalities;

(2) arrangements or agreements, whether verbal or written, between branches of State government or between branches and non-state entities, including municipalities, to share personally identifiable information, street addresses, e-mail addresses, telephone numbers, and demographic information; and

(3) recommendations for proposed legislation concerning the collection and management of personally identifiable information, street addresses, e-mail addresses, telephone numbers, and demographic information by all three branches of State government.

Sec. 2. 9 V.S.A. § 2430(9) is amended to read:

(9)(A) “Personally identifiable information” means a consumer’s first name or first initial and last name in combination with any one or more of the following digital data elements, when either the name or the data elements are not encrypted or redacted or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) Social Security number;

(ii) motor vehicle operator’s license number or nondriver identification card number;

(iii) financial account number or credit or debit card number, if circumstances exist in which the number could be used without additional identifying information, access codes, or passwords;

(iv) account passwords or personal identification numbers or other access codes for a financial account;

(v) unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee of the data to identify or authenticate the consumer, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data;

(vi) genetic information;

(vii) health information;

(viii) login credentials, including a username or password; and

(ix) a passport number.

(B) “Personally identifiable information” does not mean publicly available information that is lawfully made available to the general public from federal, State, or local government records.

Sec. 3. 9 V.S.A. chapter 62, subchapter 3A is added to read:

Subchapter 3A: Student Privacy

§ 2443. DEFINITIONS

As used in this subchapter:

(1) “Covered information” means personal information or material, or information that is linked to personal information or material, in any media or format that is:

(A)(i) not publicly available; or

(ii) made publicly available pursuant to the federal Family Educational and Rights and Privacy Act; and

(B)(i) created by or provided to an operator by a student or the student's parent or legal guardian in the course of the student's, parent's, or legal guardian's use of the operator's site, service, or application for K-12 school purposes;

(ii) created by or provided to an operator by an employee or agent of a school or school district for K-12 school purposes; or

(iii) gathered by an operator through the operation of its site, service, or application for K-12 school purposes and personally identifies a student, including information in the student's education record or electronic mail; first and last name; home address; telephone number; electronic mail address or other information that allows physical or online contact; discipline records; test results; special education data; juvenile dependency records; grades; evaluations; criminal records; medical records; health records; social security number; biometric information; disability status; socioeconomic information; food purchases; political affiliations; religious information; text messages; documents; student identifiers; search activity; photos; voice recordings; or geolocation information.

(2) "K-12 school purposes" means purposes that are directed by or that customarily take place at the direction of a school, teacher, or school district; aid in the administration of school activities, including instruction in the classroom or at home, administrative activities, and collaboration between students, school personnel, or parents; or are otherwise for the use and benefit of the school.

(3) "Operator" means, to the extent that an entity is operating in this capacity, the operator of an Internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for K-12 school purposes and was designed and marketed for K-12 school purposes.

(4) "School" means:

(A) a public or private preschool, public kindergarten, elementary or secondary educational institution, vocational school, special educational agency or institution; and

(B) a person, agency, or institution that maintains school student records from more than one of the entities described in subdivision (6)(A) of this section.

(5) “Targeted advertising” means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student’s online behavior, usage of applications, or covered information. The term does not include advertising to a student at an online location based upon that student’s current visit to that location or in response to that student’s request for information or feedback, without the retention of that student’s online activities or requests over time for the purpose in whole or in part of targeting subsequent ads.

§ 2443a. OPERATOR PROHIBITIONS

(a) An operator shall not knowingly do any of the following with respect to its site, service, or application:

(1) Engage in targeted advertising on the operator’s site, service, or application or target advertising on any other site, service, or application if the targeting of the advertising is based on any information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of that operator’s site, service, or application for K–12 school purposes;

(2) Use information, including a persistent unique identifier, that is created or gathered by the operator’s site, service, or application to amass a profile about a student, except in furtherance of K–12 school purposes. “Amass a profile” does not include the collection and retention of account information that remains under the control of the student, the student’s parent or legal guardian, or the school.

(3) Sell, barter, or rent a student’s information, including covered information. This subdivision (3) does not apply to the purchase, merger, or other type of acquisition of an operator by another entity if the operator or successor entity complies with this subchapter regarding previously acquired student information.

(4) Except as otherwise provided in section 2443c of this title, disclose covered information, unless the disclosure is made for one or more of the following purposes and is proportionate to the identifiable information necessary to accomplish the purpose:

(A) to further the K–12 purposes of the site, service, or application, provided:

(i) the recipient of the covered information does not further disclose the information except to allow or improve operability and functionality of the operator’s site, service, or application; and

(ii) the covered information is not used for a purpose inconsistent with this subchapter;

(B) to ensure legal and regulatory compliance or take precautions against liability;

(C) to respond to judicial process;

(D) to protect the safety or integrity of users of the site or others or the security of the site, service, or application;

(E) for a school, educational, or employment purpose requested by the student or the student's parent or legal guardian, provided that the information is not used or further disclosed for any other purpose; or

(F) to a third party if the operator contractually prohibits the third party from using any covered information for any purpose other than providing the contracted service to or on behalf of the operator, prohibits the third party from disclosing any covered information provided by the operator to subsequent third parties, and requires the third party to implement and maintain reasonable security procedures and practices.

(b) This section does not prohibit an operator's use of information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

§ 2443b. OPERATOR DUTIES

An operator shall:

(1) implement and maintain reasonable security procedures and practices appropriate to the nature of the covered information and designed to protect that covered information from unauthorized access, destruction, use, modification, or disclosure;

(2) delete, within a reasonable time period and to the extent practicable, a student's covered information if the school or school district requests deletion of covered information under the control of the school or school district, unless a student or his or her parent or legal guardian consents to the maintenance of the covered information; and

(3) publicly disclose and provide the school with material information about its collection, use, and disclosure of covered information, including publishing a term of service agreement, privacy policy, or similar document.

§ 2443c. PERMISSIVE USE OR DISCLOSURE

An operator may use or disclose covered information of a student under the following circumstances:

(1) if other provisions of federal or State law require the operator to disclose the information and the operator complies with the requirements of federal and State law in protecting and disclosing that information;

(2) for legitimate research purposes as required by State or federal law and subject to the restrictions under applicable State and federal law or as allowed by State or federal law and under the direction of a school, school district, or the State Board of Education if the covered information is not used for advertising or to amass a profile on the student for purposes other than for K–12 school purposes; and

(3) disclosure to a State or local educational agency, including schools and school districts, for K–12 school purposes as permitted by State or federal law.

§ 2443d. OPERATOR ACTIONS THAT ARE NOT PROHIBITED

This subchapter does not prohibit an operator from doing any of the following:

(1) using covered information to improve educational products if that information is not associated with an identified student within the operator’s site, service, or application or other sites, services, or applications owned by the operator;

(2) using covered information that is not associated with an identified student to demonstrate the effectiveness of the operator’s products or services, including in their marketing;

(3) sharing covered information that is not associated with an identified student for the development and improvement of educational sites, services, or applications;

(4) using recommendation engines to recommend to a student either of the following:

(A) additional content relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party; or

(B) additional services relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party; and

(5) responding to a student's request for information or for feedback without the information or response being determined in whole or in part by payment or other consideration from a third party.

§ 2443e. APPLICABILITY

This subchapter does not:

(1) limit the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or under a court order;

(2) limit the ability of an operator to use student data, including covered information, for adaptive learning or customized student learning purposes;

(3) apply to general audience Internet websites, general audience online services, general audience online applications, or general audience mobile applications, even if login credentials created for an operator's site, service, or application may be used to access those general audience sites, services, or applications;

(4) limit service providers from providing Internet connectivity to schools or students and their families;

(5) prohibit an operator of an Internet website, online service, online application, or mobile application from marketing educational products directly to parents if the marketing did not result from the use of covered information obtained by the operator through the provision of services covered under this subchapter;

(6) impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance with this subchapter on those applications or software;

(7) impose a duty upon a provider of an interactive computer service, as defined in 47 U.S.C. § 230, to review or enforce compliance with this subchapter by third-party content providers;

(8) prohibit students from downloading, exporting, transferring, saving, or maintaining their own student-created data or documents; or

(9) supersede the federal Family Educational Rights and Privacy Act or rules adopted pursuant to that Act.

§ 2443f. ENFORCEMENT

A person who violates a provision of this subchapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

Sec. 4. 9 V.S.A. § 2435(b)(6) is amended to read:

(6) A data collector may provide notice of a security breach to a consumer by one or more of the following methods:

(A) Direct notice, which may be by one of the following methods:

(i) written notice mailed to the consumer's residence;

(ii) electronic notice, for those consumers for whom the data collector has a valid e-mail address if:

(I) the data collector's primary method of communication with the consumer is by electronic means, the electronic notice does not request or contain a hypertext link to a request that the consumer provide personal information, and the electronic notice conspicuously warns consumers not to provide personal information in response to electronic communications regarding security breaches; or

(II) the notice is consistent with the provisions regarding electronic records and signatures for notices in 15 U.S.C. § 7001; or

(iii) telephonic notice, provided that telephonic contact is made directly with each affected consumer and not through a prerecorded message.

(B)(i) Substitute notice, if:

(I) the data collector demonstrates that the lowest cost of providing notice to affected consumers pursuant to subdivision (6)(A) of this subsection among written, e-mail, or telephonic notice to affected consumers would exceed \$5,000.00 \$10,000.00; or

(II) ~~the class of affected consumers to be provided written or telephonic notice exceeds 5,000; or~~

(III) the data collector does not have sufficient contact information.

(ii) A data collector shall provide substitute notice by:

(I) conspicuously posting the notice on the data collector's website if the data collector maintains one; and

(II) notifying major statewide and regional media.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Committee Relieved of Further Consideration; Bill Committed

S. 170.

On motion of Senator Cummings, the Committee on Finance was relieved of further consideration of Senate bill entitled:

An act relating to the Standard Offer Program and hydroelectric plants, and the bill was committed to the Committee on Natural Resources and Energy.

Message from the House No. 29

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 514. An act relating to miscellaneous tax provisions.

H. 518. An act relating to fair and impartial policing.

In the passage of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 19. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Mazza, the Senate adjourned until one o'clock in the afternoon on Thursday, March 21, 2019.