

# House Calendar

Tuesday, February 1, 2022

29th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Favorable with Amendment**

**H. 320**

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

**Rep. Bluemle of Burlington**, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended as follows:

First: In Sec. 1, 21 V.S.A. § 495, by striking out subsection (i) in its entirety and inserting in lieu thereof a new subsection (i) to read as follows:

(i)(1) An agreement to settle a claim of a violation of subsection (a) of this section shall not prohibit, prevent, or otherwise restrict the employee from working for the employer or any parent company, subsidiary, division, or affiliate of the employer. Any provision of an agreement to settle a claim of a violation of subsection (a) of this section that violates this subsection shall be void and unenforceable with respect to the individual who made the claim.

(2) The provisions of this subsection shall not apply to any settlement agreement that was entered into on or before June 30, 2022.

Second: In Sec. 2, effective date, by striking out the number “2021” and inserting in lieu thereof the number “2022”

**( Committee Vote: 8-3-0)**

**NOTICE CALENDAR**

**Committee Bill for Second Reading**

**H. 701**

An act relating to cannabis license fees.

**(Rep. Ancel of Calais** will speak for the Committee on Ways and Means.)

**Favorable with Amendment**

**H. 367**

An act relating to the management of perpetual care funds by cemetery associations

**Rep. Lefebvre of Orange**, for the Committee on Government Operations, recommends the bill be amended as follows:

By striking out Sec. 1, 18 V.S.A. § 5437, in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 18 V.S.A. § 5437 is amended to read:

§ 5437. INVESTMENT

A cemetery association shall invest such trust funds and shall expend the income therefrom in accordance with the provisions of in the same manner as town cemeteries pursuant to section 5309 5384 of this title and may delegate the management and investment of cemetery association funds pursuant to subdivision (b)(3) of that section.

( Committee Vote: 11-0-0)

#### H. 461

An act relating to excluding the income of asylum seekers and refugees from household income

**Rep. Ode of Burlington**, for the Committee on Ways and Means, recommends the bill be amended as follows:

By striking out Sec. 1, 32 V.S.A. § 6061(3), in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 32 V.S.A. § 6061(3) is amended to read:

(3)(A) “Household” means, for any individual and for any taxable year, the individual and such other persons as resided with the individual in the principal dwelling at any time during the taxable year.

(B) The following shall not be considered members of the household:

(i) A person who is not related to any member of the household and who is residing in the household under a written homesharing agreement pursuant to a nonprofit homesharing program;

(ii) a person residing in the household who was granted humanitarian parole to enter the United States pursuant to 8 C.F.R. § 212.5, who is seeking or has been granted asylum pursuant to 8 U.S.C. § 1158, or who qualifies as a refugee pursuant to 8 U.S.C. § 1101(a)(42), provided the person is not eligible or required under the laws of the United States to apply for lawful permanent residency; or

(iii) a person residing in a household who is hired as a bona fide employee to provide personal care to a member of the household and who is not related to the person for whom the care is provided shall not be considered to be a member of the household.

( Committee Vote: 11-0-0)

**H. 489**

An act relating to miscellaneous provisions affecting health insurance regulation

**Rep. Donahue of Northfield**, for the Committee on Health Care, recommends the bill be amended as follows:

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

Sec. 1. 8 V.S.A. § 4062c is amended to read:

§ 4062c. COMPLIANCE WITH FEDERAL LAW

(a) Except as otherwise provided in this title, health insurers, hospital or and medical service corporations, and health maintenance organizations that issue, sell, renew, or offer health insurance coverage in Vermont shall comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, as amended from time to time (42 U.S.C., Chapter 6A, Subchapter XXV), and the Patient Protection and Affordable Care Act of 2010, ~~Public Law~~ Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, ~~Public Law~~ Pub. L. No. 111-152. The Commissioner shall enforce such requirements pursuant to his or her the Commissioner's authority under this title.

(b)(1) Health insurers, hospital and medical service corporations, health maintenance organizations, and health care providers, as that term is defined in 18 V.S.A. § 9432, shall comply with the requirements of the No Surprises Act, Pub. L. No. 116-260, Division BB, Title I, as amended from time to time.

(2) The Commissioner shall enforce the requirements of the No Surprises Act as they apply to health insurers, hospital and medical service corporations, health maintenance organizations, and health care providers, to the extent permitted under federal law, pursuant to the Commissioner's authority under this title. The Commissioner may also refer cases of noncompliance to the U.S. Department of Health and Human Services under the terms of a collaborative enforcement agreement, or to the Office of the Vermont Attorney General.

Sec. 2. NO SURPRISES ACT; PROVIDER OUTREACH

The Department of Financial Regulation, in collaboration with the Departments of Health and of Vermont Health Access and professional organizations representing health care providers, shall inform health care providers of their responsibilities under the No Surprises Act.

Sec. 3. 8 V.S.A. § 4079 is amended to read:

§ 4079. GROUP INSURANCE POLICIES; DEFINITIONS

Group health insurance is hereby declared to be that form of health insurance covering one or more persons, with or without their dependents, and issued upon the following basis:

(1)(A) Under a policy issued to an employer, who shall be deemed the policyholder, insuring at least one employee of such employer, for the benefit of persons other than the employer. The term “employees,” as used ~~herein~~ in this section, shall be deemed to include the officers, managers, and employees of the employer; the partners, if the employer is a partnership; the officers, managers, and employees of subsidiary or affiliated corporations of a corporation employer; and the individual proprietors, partners, and employees of individuals and firms, the business of which is controlled by the insured employer through stock ownership, contract, or otherwise. The term “employer,” as used ~~herein~~ in this section, may be deemed to include any municipal or governmental corporation, unit, agency, or department thereof ~~and the proper officers as such, of any unincorporated municipality or department thereof~~ entity or officer, or the appropriate officer for an unincorporated town or gore or for the Unified Towns and Gores of Essex County, as well as private individuals, partnerships, and corporations.

(B) In accordance with section 3368 of this title, an employer domiciled in ~~another~~ a jurisdiction other than Vermont that has more than 25 certificate-holder employees whose principal worksite and domicile is in Vermont and that is defined as a large group in its own jurisdiction and under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 1304, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, may purchase insurance in the large group health insurance market for its Vermont-domiciled certificate-holder employees.

(2)(A) A Under a policy issued:

(i) to an association, a trust, or one or more trustees of a fund established, ~~created, or maintained~~ by one or more associations otherwise eligible for the issuance of a policy under this subdivision (2) and maintained, directly or indirectly, by one or more associations for the benefit of its members of one or more associations, or a contract or plan issued by such an association or trust; or

(ii) by a multiple employer welfare arrangement as defined in the Employee Retirement Income Security Act of 1974, as amended.

(B)(i) The association or associations shall have:

~~(A)(I) shall have a minimum of 100 persons at the time of incorporation or formation if it has been incorporated or formed outside this State, and a minimum of 25 persons at the time of incorporation or formation if it has been incorporated or formed in this State;~~

~~(B)(II) shall have been organized and maintained in good faith for purposes other than that of obtaining insurance;~~

~~(C)(III) shall have been in active existence for at least one year; and~~

~~(D)(IV) shall have a constitution and bylaws which that provide that:~~

~~(i)(aa) the association or associations hold regular meetings not less than annually to further purposes of the members;~~

~~(ii)(bb) except for credit unions, the association or associations collect dues or solicit contributions from members; and~~

~~(iii)(cc) the members have voting privileges and constitute a majority of the voting power of the association for all purposes and have representation on the governing board and committees.~~

~~(ii)(I) The association or associations shall not be controlled by an insurer, as evidenced by the operation of the association or associations.~~

~~(II) The following factors may be used as evidence to determine whether an association is an insurer-operated association; provided, however, that the presence or absence of one or more of these factors shall not serve to limit or be dispositive of such a determination:~~

~~(aa) common board members, officers, executives, or employees;~~

~~(bb) common ownership of the insurer and the association, or of the association and another eligible group; and~~

~~(cc) common use of office space or equipment used by the insurer to transact insurance.~~

~~(C) An association's members shall have a shared or common purpose that is not primarily a business or customer relationship.~~

~~(D)(i) A policy issued by an association shall not insure persons other than the members or employees of the association or associations, or employees of members, or all of any class or classes of employees of the association, associations, or members, together, in each case, with the employees' or members' dependents, as applicable, for the benefit of persons other than the employee's employer.~~

(ii) A policy issued by an association shall insure all eligible persons, except those who reject coverage in writing.

(E) An association shall not use the solicitation of insurance as the primary method of obtaining new members.

(F) If an insurer collects membership fees or dues on behalf of an association, the insurer shall disclose to the members of the association that the insurer is billing and collecting membership fees and dues on behalf of the association.

(3)(A) A Under a policy issued to a trust, or to one or more trustees of a fund established or adopted and maintained, directly or indirectly, by:

(i) two or more employers;

(ii) one or more labor unions or similar employee organizations;

or

(iii) one or more employers and one or more labor unions or similar employee organizations.

(B)(i) A policy under this subdivision must be issued to the trust or trustees for the purpose of insuring all of the employees of the employers or all of the members of the unions or organizations, or all of any class or classes of employees or members, together, in each case, with the employees' or members' dependents, as applicable, for the benefit of persons other than the employers or the unions or organizations. The trust or trustee shall be deemed the policyholder.

(ii) A policy issued to a trust shall insure all eligible persons, except those who reject coverage in writing.

(4) Under a policy issued to any other substantially similar group ~~which~~ that, in the discretion of the Commissioner, may be subject to the issuance of a group accident and sickness policy or contract.

Sec. 4. 8 V.S.A. § 4089f is amended to read:

§ 4089f. INDEPENDENT EXTERNAL REVIEW OF HEALTH CARE  
SERVICE DECISIONS

\* \* \*

(b) An insured who has exhausted all applicable internal review procedures provided by the health benefit plan shall have the right to an independent external review of a decision under a health benefit plan to deny, reduce or terminate health care coverage or to deny payment for a health care service.

The independent review shall be available when requested in writing by the affected insured, provided the decision to be reviewed requires the plan to expend at least \$100.00 for the service and the decision by the plan is based on one of the following reasons:

\* \* \*

(5) The decision involves an adverse determination related to surprise medical billing, as established under Section 2799A-1 or 2799A-2 of the Public Health Service Act, including with respect to whether an item or service that is the subject of the adverse determination is an item or service to which Section 2799A-1 or 2799A-2 of the Public Health Service Act, or both, applies.

\* \* \*

Sec. 5. 18 V.S.A. § 9374(h)(5)(A) is amended to read:

(5)(A) Annually on or before September 15, the Board ~~and the Department of Financial Regulation~~ shall report to the House and Senate Committees on Appropriations the total amount of all expenses eligible for allocation pursuant to this subsection (h) during the preceding State fiscal year and the total amount actually billed back to the regulated entities during the same period. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.

Sec. 6. 18 V.S.A. § 9417(c) is amended to read:

(c) The Commissioner of Financial Regulation shall adopt rules pursuant to 3 V.S.A. chapter 25 to license and regulate, to the extent permitted under federal law, entities administering or proposing to administer one or more HRAs, HSAs, FSAs, or similar tax-advantaged accounts for health-related expenses, or a combination of these, in this State. The rules shall include:

(1) ~~annual~~ licensure or registration filing requirements; and

(2) such requirements and qualifications for such entities as the Commissioner determines necessary to protect Vermont consumers and employers and to help ensure that funds are disbursed appropriately.

Sec. 7. 18 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

As used in this chapter:

\* \* \*



(13) “Health care decision” means consent, refusal to consent, or withdrawal of consent to any health care and includes consent to receive out-of-network services.

\* \* \*

Sec. 8. HEALTH INSURANCE PARITY IN RESIDENTIAL CARE FOR CHILDREN AND YOUTH WORKING GROUP; REPORT

(a) Creation. There is created the Insurance Parity in Residential Care for Children and Youth Working Group to increase access to appropriate residential treatment for children and youth who are enrolled in commercial health insurance.

(b) Membership. The Working Group shall be composed of the following members:

(1) one or more representatives from the Department of Mental Health;

(2) one or more representatives from the Department for Children and Families;

(3) one or more representatives from the Department of Financial Regulation;

(4) one or more representatives from the Agency of Education;

(5) one or more representatives from the Department of Vermont Health Access;

(6) two or more representatives from residential treatment programs, including one funded as a private nonmedical institution for residential child care and one funded through a designated or specialized service agency bundled rate, selected by the Department of Mental Health in consultation with the Department for Children and Families;

(7) two or more representatives from commercial health insurance carriers, selected by the Department of Financial Regulation; and

(8) the Chief Health Advocate from the Office of the Health Care Advocate or designee.

(c) Powers and duties. The Working Group shall:

(1) examine the barriers that make it difficult for children and youth to access medically necessary residential treatment;

(2) identify the reasons that Vermont residential treatment programs are resistant to becoming approved providers for private insurance;

(3) propose solutions to overcome the barriers and reasons identified pursuant to subdivisions (1) and (2) of this subsection, including the possibility of creating a common set of quality and utilization management criteria and processes for private insurance and Medicaid-funded residential treatment; and

(4) explore solutions to streamline funding options for State-placed private pay students by considering the provisions of 16 V.S.A. §§ 11 and 2950.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department of Financial Regulation.

(e) Report. On or before December 15, 2022, the Working Group shall provide its findings and any recommendations for legislative action to the House Committees on Health Care, on Human Services, and on Education and the Senate Committees on Health and Welfare and on Education.

(f) Meetings.

(1) The Commissioner of Financial Regulation or designee shall be the Chair and shall call the first meeting of the Working Group to occur on or before June 15, 2022.

(2) A majority of the membership shall constitute a quorum.

(3) The Working Group shall cease to exist on December 15, 2022.

#### Sec. 9. EFFECTIVE DATES

This act shall take effect on July 1, 2022, except that Sec. 8 (Health Insurance Parity in Residential Care for Children and Youth Working Group; report) and this section shall take effect on passage.

**( Committee Vote: 10-0-1)**

### **Constitutional Proposals**

#### **Prop 2 Declaration of rights; clarifying the prohibition on slavery and indentured servitude**

Second Day of Four Days requirement on the Notice Calendar pursuant to Rule 51a

\*\*\*Please note, the text of Proposal 2 that appeared for notice in the Calendar on January 25, 26, and 27 was incorrect. The correct text of Proposal 2 appears below\*\*\*

**Rep. Colston of Winooski** for Government Operations

#### PROPOSED AMENDMENT TO THE CONSTITUTION

OF THE STATE OF VERMONT

Subject: Declaration of rights; clarifying the prohibition on slavery and indentured servitude

PROPOSAL 2

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to clarify that slavery and indentured servitude in any form are prohibited.

Sec. 2. Article 1 of Chapter I of the Vermont Constitution is amended to read:

Article 1. [All persons born free; their natural rights; slavery and indentured servitude prohibited]

That all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety; therefore ~~no person born in this country, or brought from over sea, ought to be holden by law, to serve any person as a servant, slave or apprentice, after arriving to the age of twenty-one years, unless bound by the person's own consent, after arriving to such age, or bound by law for the payment of debts, damages, fines, costs, or the like~~ slavery and indentured servitude in any form are prohibited.

Sec. 3. EFFECTIVE DATE

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

**Prop 5 Declaration of rights; right to personal reproductive liberty**

Second Day of Four Days requirement on the Notice Calendar pursuant to Rule 51a

**Rep. Pugh of South Burlington** for Human Services.

PROPOSED AMENDMENT TO THE CONSTITUTION

OF THE STATE OF VERMONT

Subject: Declaration of rights; right to personal reproductive liberty

PROPOSAL 5

## Sec. 1. PURPOSE

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

(b) The right to reproductive liberty is central to the exercise of personal autonomy and involves decisions people should be able to make free from compulsion of the State. Enshrining this right in the Constitution is critical to ensuring equal protection and treatment under the law and upholding the right of all people to health, dignity, independence, and freedom.

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

Article 22. [Personal reproductive liberty]

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

## Sec. 3. EFFECTIVE DATE

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

### **For Informational Purposes**

#### **Crossover Deadline**

(1) All **Senate/House** bills must be reported out of the last committee of

reference (including the Committees on Appropriations and on Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 11, 2022**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 11, 2022**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and on Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 18, 2022**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation capital bill, the Capital Construction bill, and the Fee/Revenue bills).**

### **PUBLIC HEARING**

**Public Hearings on the Governor’s recommended Fiscal Year 2023 State budget**

**Joint House and Senate Committees on Appropriations**

**Tuesday, February 8, 2022 at 6:00 p.m. – 8:00 p.m. and Wednesday, February 9, 2022 at 3:00 p.m. to 5:00 p.m.**—The Vermont House and Senate Committees on Appropriations are seeking public and advocate input on the Governor’s recommended FY 2023 State budget and will hold two public hearings via videoconference.

Anyone interested in testifying should **sign-up in advance of the hearings through ONE of the online forms no later than 5:00 p.m. on February 7, 2022**. Instructions on how to access and participate in the hearing will be sent once you have signed up for one of the hearings. Time limits for testimony may apply depending on volume of participants.

Link to **form to sign-up for February 8, 2022:**

<https://legislature.vermont.gov/links/fy22-budget-adjustment-hearing-feb-8>

Link to **form to sign-up for February 9, 2022:**

<https://legislature.vermont.gov/links/fy22-budget-adjustment-hearing-feb-9>

Both hearings will be available to watch live on YouTube at the following link: <https://legislature.vermont.gov/committee/streaming/vermont-joint-fiscal> or your local access community cable channel. You can find your local channel at the following link: <https://vermontaccess.net/amo/>

For more information about the format of these events, contact Chrissy Gilhuly at [cgilhuly@leg.state.vt.us](mailto:cgilhuly@leg.state.vt.us) or Theresa Utton-Jerman at [tutton@leg.state.vt.us](mailto:tutton@leg.state.vt.us) or call 802-828-2295 or toll-free within Vermont at 1-800-322-5616 (responses to phone calls may be delayed). Written testimony is encouraged and can be submitted electronically to Chrissy or Theresa through e-mail or mailed to the House and Senate Committee on Appropriations, c/o Joint Fiscal Office, 1 Baldwin Street, Montpelier, VT 05633-5701.

### **Information Notice**

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

**JFO #3085** – Two (2) limited-service positions to the VT Department of Disabilities, Aging and Independent Living, Division of Vocational Rehabilitation from the Centers for Medicare and Medicaid Services. One (1) VR Program Coordinator to oversee at statewide scholarship, and mentor program for personal care attendants. One (1) VR Assistive Technology Specialist for vocational rehabilitation clients including transition age youth (high school students). Both positions funded through 9/30/2025 by previously approved grant JFO #2510.

*[Received January 4, 2022]*

**JFO #3086** – \$925,840 to the VT Agency of Education from the U.S. Department of Agriculture Food and Nutrition Services. The grant will be used to fund two projects: Phase II of a current IT systems upgrade to improve interconnectivity and data transfer functionalities of the system; and a pilot of the Ed-Fi data model to explore improvements for data transfers between local education agencies, child nutrition programs and other state agencies. Edfi is a national data standard in education. Please see this link for more information on the data system: <https://www.ed-fi.org/>.

*[Received January 4, 2022]*

### **Joint Assembly**

February 17, 2022 - 10:30 A.M. – Election of two (2) trustees for the Vermont State Colleges Corporation.

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than February 10, 2022 , by 4:30 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.