

Senate Calendar

WEDNESDAY, FEBRUARY 9, 2022

SENATE CONVENES AT: 1:00 P.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL MARCH 22, 2022

GOVERNOR'S VETO

S. 79 An act relating to improving rental housing health and safety..... 423

UNFINISHED BUSINESS OF JANUARY 4, 2022

GOVERNOR'S VETO

S. 107 An act relating to confidential information concerning the initial arrest and charge of a juvenile..... 423

Pending question: Shall the bill pass, notwithstanding the Governor's refusal to approve the bill?

Text of the veto message.....423

Bill as passed by Senate and House.....425

UNFINISHED BUSINESS OF FEBRUARY 2, 2022

Third Reading

S. 280 An act relating to miscellaneous changes to laws related to vehicles..... 427

UNFINISHED BUSINESS OF FEBRUARY 8, 2022

Second Reading

Favorable with Recommendation of Amendment

S. 210 An act relating to rental housing health and safety and affordable housing

Econ Dev, Housing and General Affairs Report - Sen. Clarkson 427

Finance Report - Sen. Sirotkin 429

Appropriations Report - Sen. Kitchel 429

NEW BUSINESS

Joint Resolution For Action

J.R.H. 14 Joint resolution authorizing the 2022 Green Mountain Girls
State educational program to use the State House..... [431](#)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 166 An act relating to utility construction worksites and consumer
protection
Judiciary Report - Sen. Baruth [432](#)

ORDERS OF THE DAY

ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL MARCH 22, 2022

GOVERNOR'S VETO

S. 79.

An act relating to improving rental housing health and safety.

Pending question (to be voted by call of the roll): Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

(For text of the Governor's Veto Message, see Senate Journal for June 24, 2021, page 1454)

UNFINISHED BUSINESS OF JANUARY 4, 2022

GOVERNOR'S VETO

S. 107.

An act relating to confidential information concerning the initial arrest and charge of a juvenile.

Pending question (to be voted by call of the roll): Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

The text of the Communication from His Excellency, The Governor, whereby he *vetoed* and returned unsigned **Senate Bill No. S. 107** to the Senate is as follows:

Text of Communication from Governor

"May 20, 2021

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.107, *An act relating to confidential information concerning the initial arrest and charge of a juvenile*, without my signature, because of concerns with the policy to automatically raise the age of accountability for

crimes, and afford young adults protections meant for juveniles, without adequate tools or systems in place.

Three years ago, I signed legislation intended to give young adults who had become involved in the criminal justice system certain protections meant for juveniles. At the time, I was assured that, prior to the automatic increases in age prescribed in the bill, plans would be in place to provide access to the rehabilitation, services, housing and other supports needed to both hold these young adults accountable and help them stay out of the criminal justice system in the future.

This has not yet been the case. In addition to ongoing housing challenges, programs designed and implemented for children under 18 are often not appropriate for those over 18. Disturbingly, there are also reports of some young adults being used – and actively recruited – by older criminals, like drug traffickers, to commit crimes because of reduced risk of incarceration, potentially putting the young people we are trying to protect deeper into the criminal culture and at greater risk.

I want to be clear: I’m not blaming the Legislature or the Judiciary for these gaps. All three branches of government need to bring more focus to this issue if we are going to provide the combination of accountability, tools and services needed to ensure justice and give young offenders a second chance.

For these reasons, I believe we need to take a step back and assess Vermont’s “raise the age” policy, the gaps that exist in our systems and the unintended consequences of a piecemeal approach on the health and safety of our communities, victims and the offenders we are attempting to help. I see S.107 as deepening this piecemeal approach.

I also remain concerned with the lack of clarity in S.107 regarding the disparity in the public records law between the Department of Public Safety and the Department of Motor Vehicles.

Based on the objections outlined above, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution. I believe this presents an opportunity to start a much-needed conversation about the status of our juvenile justice initiatives and make course corrections where necessary, in the interest of public safety and the young Vermonters we all agree need an opportunity to get back on the right path.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp”

Text of bill as passed by Senate and House

The text of the bill as passed by the Senate and House of Representatives is as follows:

S.107 An act relating to confidential information concerning the initial arrest and charge of a juvenile

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Exemption; records of arrest or charge of a juvenile * * *

Sec. 1. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS; EXEMPTIONS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(5)(A) Records dealing with the detection and investigation of crime, but only to the extent that the production of such records:

* * *

(B)(i) Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public.

(ii) A public agency shall not release any information within a record reflecting the initial arrest or charge of a person under 19 years of age that would reveal the identity of the person. However, a public agency may disclose identifying information relating to the initial arrest of a person under 19 years of age in order to protect the health and safety of any person.

* * *

* * * Effective July 1, 2022 * * *

Sec. 2. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS; EXEMPTIONS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(5)(A) Records dealing with the detection and investigation of crime, but only to the extent that the production of such records:

* * *

(B)(i) Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public.

(ii) A public agency shall not release any information within a record reflecting the initial arrest or charge of a person under ~~19~~ 20 years of age that would reveal the identity of the person. However, a public agency may disclose identifying information relating to the initial arrest of a person under ~~19~~ 20 years of age in order to protect the health and safety of any person.

* * *

Sec. 3. APPLICATION OF PUBLIC RECORDS ACT EXEMPTION REVIEW

Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption amended in Sec. 1 shall continue in effect and shall not be reviewed for repeal.

* * * Custodian of records relating to a person
under court jurisdiction * * *

Sec. 4. 33 V.S.A. § 5117 is amended to read:

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

(a)(1) Except as otherwise provided, court and law enforcement reports and files concerning a person subject to the jurisdiction of the court shall be maintained separate from the records and files of other persons. Unless a charge of delinquency is transferred for criminal prosecution under chapter 52 of this title or the court otherwise orders in the interests of the child, such records and files shall not be open to public inspection nor their contents disclosed to the public by any person. However, upon a finding that a child is a delinquent child by reason of commission of a delinquent act ~~which~~ that would have been a felony if committed by an adult, the court, upon request of the victim, shall make the child's name available to the victim of the

delinquent act. If the victim is incompetent or deceased, the child's name shall be released, upon request, to the victim's guardian or next of kin.

(2) When a person is subject to the jurisdiction of the court, the court shall become the sole records custodian for purposes of responding to any request for court or law enforcement records concerning the person. A public agency shall direct any request for these records to the courts for response.

(3) When a person is subject to the jurisdiction of the Criminal Division of the Superior Court pursuant to chapter 52 or 52A of this title, the Criminal Division of the Superior Court shall become the sole records custodian for purposes of responding to any request for court or law enforcement records concerning the person. A public agency shall direct any request for these records to the courts for response.

* * *

* * * Effective Dates * * *

Sec. 5. EFFECTIVE DATES

This act shall take effect on July 1, 2021, except that Sec. 2 (2022 amendment to 1 V.S.A. § 317(c)(5)(B)(ii) (public records; exemptions; records relating to the initial arrest and charge of a person)) shall take effect on July 1, 2022.

UNFINISHED BUSINESS OF FEBRUARY 2, 2022

Third Reading

S. 280.

An act relating to miscellaneous changes to laws related to vehicles.

UNFINISHED BUSINESS OF FEBRUARY 8, 2022

Second Reading

Favorable with Recommendation of Amendment

S. 210.

An act relating to rental housing health and safety and affordable housing.

Reported favorably with recommendation of amendment by Senator Clarkson for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the bill be amended as follows:

First: In Sec. 1, 20 V.S.A. chapter 172, in subsection 2678(b), by inserting a new subdivision (7) to read:

(7) Units rented for fewer than 90 days. The registration and fee requirements imposed in subsection (a) of this section do not apply to a unit that is rented for fewer than 90 days per calendar year.

And by renumbering the remaining subdivision to be numerically correct

Second: In Sec. 3, repeal, by striking out “2678(b)(7)” and inserting in lieu thereof 2678(b)(8)

Third: By adding Secs. 14a and 14b to read as follows:

Sec. 14a. VERMONT RENTAL HOUSING INVESTMENT PROGRAM;
FY 2022 APPROPRIATION

In fiscal year 2022, of the amounts available to the State from federal coronavirus relief funds, the amount of \$2,000,000.00 is appropriated to the Department of Housing and Community Development to implement the Vermont Rental Housing Investment Program created in Sec. 9 of this act.

Sec. 14b. VERMONT RENTAL HOUSING INVESTMENT PROGRAM;
FY 2023 APPROPRIATION

In fiscal year 2023, of the amounts available to the State from federal coronavirus relief funds, the amount of \$10,000,000.00 is appropriated to the Department of Housing and Community Development to implement the Vermont Rental Housing Investment Program created in Sec. 9 of this act.

Fourth: By striking out Sec. 15, effective dates, in its entirety and inserting in lieu thereof a new Sec. 15 to read:

Sec. 15. EFFECTIVE DATES

(a) This section, Secs. 8–10 (Vermont Rental Housing Investment Program), and Sec. 14a (FY 2022 VRHIP appropriation) shall take effect on passage.

(b) The following sections shall take effect on July 1, 2022:

(1) Sec. 1 (DPS authority for rental housing health and safety; rental housing registration);

(2) Sec. 4 (DPS positions);

(3) Sec. 5 (DHCD positions);

(4) Sec. 6 (conforming changes to Department of Health statutes);

(5) Sec. 7 (DPS rulemaking authority and transition provisions);

(6) Secs. 11–14 (revolving loan program; reports); and

(7) Sec. 14b (FY 2023 VRHIP appropriation).

(c) Sec. 2 (administrative penalty for failure to register) shall take effect on July 1, 2023.

(d) Sec. 3 (repeal of registration exemption for housing provided as a benefit of farm employment) shall take effect on July 1, 2025.

(Committee vote: 4-1-0)

Reported favorably by Senator Sirotkin for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs and when so amended ought to pass.

(Committee vote: 6-1-0)

Reported favorably with recommendation of amendment by Senator Kitchel for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: By striking out Secs. 4 (DPS positions) and 5 (DHCD positions) in their entireties and inserting in lieu thereof new Secs. 4–5 to read as follows:

Sec. 4. DEPARTMENT OF PUBLIC SAFETY; POSITIONS

(a) The Department of Public Safety is authorized to create five full-time classified Inspector positions in order to conduct rental housing health and safety inspections and enforcement pursuant to 20 V.S.A. chapter 172.

(b) The Department may hire additional Inspectors authorized by this section to the extent funds become available from the Rental Housing Safety Special Fund created and maintained pursuant to 20 V.S.A. § 2678(d).

Sec. 5. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT; POSITIONS

(a) The Department of Housing and Community Development is authorized to create one full-time classified position and one half-time classified position to design and implement the registry created in, and to administer and enforce the registry requirements of, 20 V.S.A. § 2678.

(b) The Department may hire additional staff authorized by this section to the extent funds become available from the Rental Housing Safety Special Fund created and maintained pursuant to 20 V.S.A. § 2678(d).

Second: By striking out Secs. 14a (FY 2022 appropriation; VRHIP); 14b (FY 2023 appropriation; VRHIP); and 15 (effective dates) in their entireties and inserting in lieu thereof two new sections to be Secs. 15–16 to read as follows:

Sec. 15. APPROPRIATIONS

(a) Purpose. The purpose of the appropriations in this section are:

(1) to respond to the far-reaching public health and negative economic impacts of the COVID-19 pandemic; and

(2) to ensure that Vermonters and Vermont communities have an adequate supply of safe, affordable housing.

(b) In fiscal year 2022, the amount of \$20,400,000.00 is appropriated from the America Rescue Plan Act (ARPA) – Coronavirus State Fiscal Recovery Funds as follows:

(1) \$100,000.00 to the Department of Public Safety as one-time startup funding to hire one or more Inspector positions authorized pursuant to Sec. 4 of this act.

(2) \$300,000.00 to the Department of Housing and Community Development as one-time startup funding to hire one or more of the positions authorized pursuant to Sec. 5 of this act.

(3) \$20,000,000.00 to the Department of Housing and Community Development to implement the Vermont Rental Housing Investment Program created in 10 V.S.A. § 699.

Sec. 16. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

(1) Sec. 1 (DPS authority for rental housing health and safety; rental housing registration).

(2) Sec. 4 (DPS positions).

(3) Sec. 5 (DHCD positions).

(4) Sec. 6 (conforming changes to Department of Health statutes).

(5) Sec. 7 (DPS rulemaking authority and transition provisions).

(6) Secs. 8–10 (Vermont Rental Housing Investment Program).

(7) Secs. 11–14 (Vermont Homeownership Revolving Loan Fund).

(8) Sec. 15 (FY 2022 ARPA appropriations).

(b) Sec. 2 (administrative penalty for failure to register rental housing) shall take effect on July 1, 2023.

(c) Sec. 3 (repeal of registration exemption for housing provided as a benefit of farm employment) shall take effect on July 1, 2025.

(Committee vote: 6-0-1)

NEW BUSINESS

Joint Resolution For Action

J.R.H. 14.

Joint resolution authorizing the 2022 Green Mountain Girls State educational program to use the State House.

PENDING QUESTION: Shall the Senate adopt the resolution in concurrence?

Text of the resolution:

Whereas, the American Legion Auxiliary Department of Vermont sponsors the Green Mountain Girls State educational program, providing a group of girls entering the 12th grade a special opportunity to study the workings of State government in Montpelier, and

Whereas, the Green Mountain Girls State educational program serves as an outstanding leadership-training forum for future civic leaders in Vermont, and

Whereas, as part of their visit to the State's capital city, the girls conduct a mock legislative session in the State House, now therefore be it

Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the chambers and committee rooms of the State House for the Green Mountain Girls State educational program on Wednesday, June 22, 2022, from 8:00 a.m. to 4:15 p.m., and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the American Legion Auxiliary Department of Vermont in Montpelier.

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 166.

An act relating to utility construction worksites and consumer protection.

Reported favorably with recommendation of amendment by Senator Baruth for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 208c is added to read:

§ 208c. POLE ATTACHMENTS; WORKSITE CLEANUP; CONSUMER PROTECTION

(a) The purpose of this section is to protect the general public from harm or injury caused by unsafe practices related to utility pole attachments.

(b) An attaching entity subject to Commission Rule 3.700 that seeks to attach lines, wires, cables, or other facilities to a utility pole shall ensure that all construction contracts for such attachments contain terms and conditions specifying standards and responsibility for the safe disposal of any debris on the construction worksite. Unless a contract specifies otherwise, the attaching entity is liable for all accidents, environmental cleanup, damages, or injuries to any person or property resulting from a failure to safely dispose of debris on the construction worksite.

(c) In addition to any other applicable penalties or remedies, a person who violates the safety standards required by this section commits an unfair and deceptive act in trade and commerce in violation of 9 V.S.A. § 2453. A person who sustains damages or injury as a result of such violation is a “consumer” for purposes of 9 V.S.A. chapter 63, subchapter 1.

Sec. 2. EFFECTIVE DATE; APPLICATION

This act shall take effect on passage and shall apply to all construction contracts in effect on or after the effective date of this act.

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

An act relating to utility pole attachments and consumer protection.

(Committee vote: 5-0-0)

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. - 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 or Theresa Utton-Jerman at 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.

PUBLIC HEARING

The Senate Committee on Natural Resources and Energy is holding a remote (virtual) public hearing regarding three proposed new laws, S. 129, S. 201 and S. 281, on **Thursday, February 10, 2022**, from **5:30 p.m. - 7:30 p.m.**

Additional information can be found by following this link:

<https://legislature.vermont.gov/Documents/2022/WorkGroups/Senate%20Natural%20Resources/Highlights/Public%20Hearing%20on%20S.129,S.201,S.281.pdf>

NOTICE OF JOINT ASSEMBLY

Thursday, 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 Thursday, February 10, 2022, by 5:00 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

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

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

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

JFO NOTICE

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

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]

FOR INFORMATION ONLY

CROSSOVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) 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 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.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

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).