

Journal of the House

Thursday, February 9, 2023

At three o'clock in the afternoon, in the absence of the Speaker (who was Acting Governor in the absence of the Governor and Lieutenant Governor), **Rep. Long of Newfane** called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Canon Walter Brownridge, Episcopal Diocese of Vermont, Burlington.

Rules Suspended; House Bills Introduced

Pending first reading of House bills, on motion of **Rep. McCoy of Poultney**, the rules were suspended and the bills were read the first time by number and referred to committee as follows:

H. 208

By Reps. Brumsted of Shelburne, Wood of Waterbury, Andriano of Orwell, Anthony of Barre City, Arsenault of Williston, Austin of Colchester, Bartley of Fairfax, Berbeco of Winooski, Birong of Vergennes, Black of Essex, Bluemle of Burlington, Bongartz of Manchester, Bos-Lun of Westminster, Boyden of Cambridge, Brady of Williston, Branagan of Georgia, Brown of Richmond, Burke of Brattleboro, Burrows of West Windsor, Buss of Woodstock, Campbell of St. Johnsbury, Carroll of Bennington, Casey of Montpelier, Chapin of East Montpelier, Cina of Burlington, Coffey of Guilford, Cole of Hartford, Conlon of Cornwall, Cordes of Lincoln, Demrow of Corinth, Dodge of Essex, Dolan of Essex Junction, Dolan of Waitsfield, Durfee of Shaftsbury, Elder of Starksboro, Garofano of Essex, Goldman of Rockingham, Graning of Jericho, Headrick of Burlington, Holcombe of Norwich, Hooper of Burlington, Houghton of Essex Junction, Howard of Rutland City, Hyman of South Burlington, James of Manchester, Jerome of Brandon, Kornheiser of Brattleboro, Krasnow of South Burlington, LaBounty of Lyndon, Lalley of Shelburne, LaLonde of South Burlington, Leavitt of Grand Isle, Lipsky of Stowe, Logan of Burlington, Long of Newfane, Marcotte of Coventry, Masland of Thetford, McCann of Montpelier, McCarthy of St. Albans City, McFaun of Barre Town, McGill of Bridport, Mihaly of Calais, Minier of South Burlington, Mrowicki of Putney, Mulvaney-Stanak of Burlington, Nicoll of Ludlow, Notte of Rutland City, Noyes of Wolcott, Nugent of South Burlington, Ode of Burlington, Pajala of Londonderry, Patt of Worcester, Pouech of Hinesburg, Priestley of Bradford, Rachelson of Burlington, Rice of Dorset,

Satcowitz of Randolph, Scheu of Middlebury, Sims of Craftsbury, Small of Winooski, Squirrell of Underhill, Stebbins of Burlington, Stevens of Waterbury, Stone of Burlington, Surprenant of Barnard, Taylor of Colchester, Toleno of Brattleboro, Torre of Moretown, Troiano of Stannard, Waters Evans of Charlotte, White of Bethel, Whitman of Bennington, and Williams of Barre City,

House bill, entitled

An act relating to child care and early childhood education

To the Committee on Human Services.

H. 209

By Rep. Sibilis of Dover,

House bill, entitled

An act relating to public elementary school choice within a supervisory union

To the Committee on Education.

H. 210

By Reps. Dolan of Essex Junction, Arsenault of Williston, Bartley of Fairfax, Berbeco of Winooski, Black of Essex, Bluemle of Burlington, Burke of Brattleboro, Buss of Woodstock, Cordes of Lincoln, Dodge of Essex, Garofano of Essex, Graning of Jericho, Howard of Rutland City, Pajala of Londonderry, Priestley of Bradford, Scheu of Middlebury, Stone of Burlington, and Waters Evans of Charlotte,

House bill, entitled

An act relating to leave from employment for legislators

To the Committee on Government Operations and Military Affairs.

H. 211

By Reps. Labor of Morgan, Chesnut-Tangerman of Middletown Springs, Christie of Hartford, Hango of Berkshire, Higley of Lowell, Lipsky of Stowe, McFaun of Barre Town, Parsons of Newbury, and Smith of Derby,

House bill, entitled

An act relating to direct-current fast chargers at former welcome centers

To the Committee on Transportation.

H. 212

By Reps. Roberts of Halifax, Bluemle of Burlington, Brumsted of Shelburne, Burrows of West Windsor, Cina of Burlington, Sims of Craftsbury, and Toleno of Brattleboro,

House bill, entitled

An act relating to allowing minors to possess tobacco in connection with Indigenous cultural tobacco practices

To the Committee on Human Services.

H. 213

By Reps. Stevens of Waterbury and Chesnut-Tangerman of Middletown Springs,

House bill, entitled

An act relating to creating a study committee on mobile homes and mobile home parks

To the Committee on General and Housing.

H. 214

By Rep. Chesnut-Tangerman of Middletown Springs,

House bill, entitled

An act relating to creating a department to routinely examine police body camera and police cruiser dashboard camera footage

To the Committee on Judiciary.

H. 215

By Reps. Cina of Burlington, Cordes of Lincoln, Goldman of Rockingham, Headrick of Burlington, Logan of Burlington, and Mulvaney-Stanak of Burlington,

House bill, entitled

An act relating to joining interstate compacts for all health care professions

To the Committee on Health Care.

H. 216

By Rep. Birong of Vergennes,

House bill, entitled

An act relating to open air cremation

To the Committee on General and Housing.

H. 217

By Reps. Marcotte of Coventry, Carroll of Bennington, Graning of Jericho, Jerome of Brandon, Mulvaney-Stanak of Burlington, Nicoll of Ludlow, Priestley of Bradford, White of Bethel, and Williams of Barre City,

House bill, entitled

An act relating to miscellaneous workers' compensation amendments

To the Committee on Commerce and Economic Development.

H. 218

By Reps. Mulvaney-Stanak of Burlington, Anthony of Barre City, Bos-Lun of Westminster, Burrows of West Windsor, Casey of Montpelier, Chesnut-Tangerman of Middletown Springs, Christie of Hartford, Cina of Burlington, Cordes of Lincoln, Elder of Starksboro, Garofano of Essex, Headrick of Burlington, Howard of Rutland City, Krasnow of South Burlington, LaBounty of Lyndon, LaMont of Morristown, Logan of Burlington, Masland of Thetford, McCann of Montpelier, McGill of Bridport, Mrowicki of Putney, Rachelson of Burlington, Small of Winooski, Troiano of Stannard, and White of Bethel,

House bill, entitled

An act relating to requiring good cause for termination of employment

To the Committee on General and Housing.

H. 219

By Reps. Mulvaney-Stanak of Burlington, Anthony of Barre City, Bos-Lun of Westminster, Burrows of West Windsor, Casey of Montpelier, Chesnut-Tangerman of Middletown Springs, Christie of Hartford, Cina of Burlington, Cordes of Lincoln, Elder of Starksboro, Garofano of Essex, Headrick of Burlington, Howard of Rutland City, Krasnow of South Burlington, LaBounty of Lyndon, LaMont of Morristown, Logan of Burlington, Masland of Thetford, McCann of Montpelier, McGill of Bridport, Mrowicki of Putney, Rachelson of Burlington, Small of Winooski, Troiano of Stannard, and White of Bethel,

House bill, entitled

An act relating to miscellaneous employee and collective bargaining rights

To the Committee on General and Housing.

H. 220

By Reps. Black of Essex, Brumsted of Shelburne, Cina of Burlington, Farlice-Rubio of Barnet, Garofano of Essex, Goldman of Rockingham, Houghton of Essex Junction, and Small of Winooski,

House bill, entitled

An act relating to primary care and preventive services

To the Committee on Health Care.

H. 221

By Reps. Stebbins of Burlington, Casey of Montpelier, and Goldman of Rockingham,

House bill, entitled

An act relating to considering modifying and restructuring the Vermont General Assembly

To the Committee on Government Operations and Military Affairs.

Ceremonial Reading**H.C.R. 20**

House concurrent resolution recognizing February 2023 as School Board Recognition Month in Vermont

Offered by: Representatives Sabilia of Dover, Conlon of Cornwall, Hango of Berkshire, Arsenault of Williston, Brady of Williston, Burrows of West Windsor, Christie of Hartford, Clifford of Rutland City, Goslant of Northfield, Long of Newfane, Morris of Springfield, Priestley of Bradford, Sims of Craftsbury, Small of Winooski, Smith of Derby, and Torre of Moretown

Whereas, Vermonters who serve as school board members are performing a not-widely acknowledged yet essential role in public education governance, and

Whereas, school board members are participants in frontline civic engagement in a manner often dissimilar to other elected officials, and

Whereas, whether it be the aftermath of district consolidation or the challenges of school operations during the pandemic, school board members confront these difficulties, ever mindful of students' academic success, and

Whereas, these citizen leaders merit our admiration in their fulfillment of a role for which they deserve our respect and gratitude, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly designates February 2023 as School Board Recognition Month in Vermont, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont School Board Association.

Having been adopted in concurrence on January 27, 2023 in accord with Joint Rule 16b, was read.

Third Reading; Bill Passed

H. 46

House bill, entitled

An act relating to approval of the dissolution of Colchester Fire District No. 3

Was taken up, read the third time, and passed.

**Second Reading; Bill Amended; Amendment Offered;
Third Reading Ordered**

H. 89

Rep. LaLonde of South Burlington, for the Committee on Judiciary, to which had been referred House bill, entitled

An act relating to civil and criminal procedures concerning legally protected health care activity

Reported in favor of its passage when amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Definitions * * *

Sec. 1. 1 V.S.A. § 150 is added to read:

§ 150. LEGALLY PROTECTED HEALTH CARE ACTIVITY

(a) “Gender-affirming health care services” means all supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature relating to the treatment of gender dysphoria, including insurance coverage for any of the foregoing. Gender-affirming health care services does not include conversion therapy as defined by 18 V.S.A. § 8351.

(b)(1) “Legally protected health care activity” means:

(A) the exercise and enjoyment, or attempted exercise and enjoyment, by any person of rights to reproductive health care services or

gender-affirming health care services secured by this State or the provision of insurance coverage for such services; or

(B) any act or omission undertaken to aid or encourage, or attempt to aid or encourage, any person in the exercise and enjoyment, or attempted exercise and enjoyment, of rights to reproductive health care services or gender-affirming health care services secured by this State or to provide insurance coverage for such services.

(2) Except as provided in subdivision (3) of this subsection (b), the protections applicable to ‘legally protected health care activity’ shall not apply to a lawsuit, judgment, or civil, criminal or administrative action that is based on conduct for which an action would exist under the laws of this State if the course of conduct that forms the basis for liability had occurred entirely in this State.

(3) Notwithstanding subdivision (2) of this subsection (b), the provision of a health care service by a person duly licensed under the laws of this State and physically present in this State and the provision of insurance coverage for such services shall be legally protected if the service is permitted under the laws of this State, regardless of the patient’s location or whether the provider is licensed in the state where the patient is located at the time the service is rendered.

(c) “Reproductive health care services” means all supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature relating to pregnancy, contraception, sterilization, assisted reproduction, pregnancy loss management, or the termination of a pregnancy, including insurance coverage for any of the foregoing.

* * * Legally Protected Health Care Exemption from SLAPP Suits * * *

Sec. 2. 12 V.S.A. § 1041 is amended to read:

§ 1041. EXERCISE OF RIGHTS TO FREE SPEECH AND TO PETITION
GOVERNMENT FOR REDRESS OF GRIEVANCES; SPECIAL
MOTION TO STRIKE

* * *

(h) This section shall not apply to:

(1) any enforcement action or criminal proceeding brought by the State of Vermont or any political subdivision thereof; or

(2) a case involving tortious interference with legally protected health care as provided in section 7302 of this title.

* * *

* * * Abusive Litigation Concerning Legally Protected Health Care Activity * * *

Sec. 3. 12 V.S.A. chapter 221 is added to read:

CHAPTER 221. LEGALLY PROTECTED HEALTH CARE ACTIVITY

§ 7301. DEFINITION

As used in this chapter:

(1)(A) “Abusive litigation” means litigation or other legal action to deter, prevent, sanction, or punish any person engaging in legally protected health care activity by:

(i) filing or prosecuting any action in any other state where liability, in whole or part, directly or indirectly, is based on legally protected health care activity that occurred in this State, including any action in which liability is based on any theory of vicarious, joint, or several liability derived therefrom; or

(ii) attempting to enforce any order or judgment issued in connection with any such action by any party to the action, or any person acting on behalf of a party to the action

(B) A lawsuit shall be considered to be based on conduct that occurred in this State if any part of any act or omission involved in the course of conduct that forms the basis for liability in the lawsuit occurs or is initiated in this State, whether or not such act or omission is alleged or included in any pleading or other filing in the lawsuit.

(2) “Gender-affirming health care services” has the same meaning as provided in 1 V.S.A. § 150.

(3) “Legally protected health care activity” has the same meaning as in 1 V.S.A. § 150.

(4) “Public agency” has the same meaning as in 1 V.S.A. § 317(a).

(5) “Reproductive health care services” has the same meaning as provided in 1 V.S.A. § 150.

§ 7302. TORTIOUS INTERFERENCE WITH LEGALLY PROTECTEDHEALTH CARE ACTIVITY

(a) Access to reproductive health care services and gender-affirming health care services is a legal right in this State. Interference with legally protected health care activity, whether or not under the color of law, is against the public policy of this State.

(b) Any public act or record of a foreign jurisdiction that prohibits, criminalizes, sanctions, or authorizes a person to bring a civil action against or otherwise interferes with a person, provider, payer, or other entity in this State that seeks, receives, causes, aids in access to, aids or abets, or provides, or attempts or intends to seek, receive, cause, aid in access to, aid or abet, or provide, legally protected health care services shall be an interference with the exercise and enjoyment of the rights secured by this State and shall be a violation of the public policy of this State.

(c) If a person, whether or not acting under color of law, engages or attempts to engage in abusive litigation that infringes on or interferes with, or attempts to infringe on or interfere with, legally protected health care activity, any aggrieved person, provider, payer, or other entity, including any defendant in such abusive litigation, may initiate a civil action for injunctive, monetary, or other appropriate relief within six years after the cause of action accrues.

(d) If the court finds for the petitioner in an action authorized by this section, recovery may include damages for the amount of any judgment issued in connection with any abusive litigation, and any and all other expenses, costs, or reasonable attorney's fees incurred in connection with the abusive litigation and with the tortious interference action.

(e) A court may exercise jurisdiction over a person in an action authorized by this section if:

(1) personal jurisdiction is found;

(2) the person has commenced any action in any court in this State and, during the pendency of that action or any appeal therefrom, a summons and complaint is served on the person or the attorney appearing on the person's behalf in that action or as otherwise permitted by law; or

(3) the exercise of jurisdiction is permitted under the Constitution of the United States.

(f) Abusive litigation does not include a lawsuit or judgment entered in another state that is based on conduct for which a cause of action would exist under the laws of this State if the course of conduct that forms the basis for

liability had occurred entirely in this State, including any contract, tort, common law, or statutory claims.

(g) An attorney shall not be liable under this section, if acting on behalf of another and within the scope of the attorney's license. A lawyer acting pro se, or a public prosecutor having the personal discretion to decide whether to bring abusive litigation, shall not be immune under this subsection.

§ 7303. FOREIGN JUDGMENTS

(a) In any action filed to enforce a foreign judgment issued in connection with abusive litigation concerning legally protected health care activity, the court shall not give any force or effect to any judgment issued without jurisdiction or due process or to any judgment that is penal in nature.

(b) Foreign judgments issued in connection with abusive litigation concerning legally protected health care activity shall be brought by filing a new and independent action on the judgment within five years after the rendition of the judgment, and not after.

§ 7304. TESTIMONY AND DOCUMENTS

(a) Notwithstanding any other provision in this title or court rule to the contrary, except as required by federal law, a court shall not order a person who is domiciled or found within this State to give testimony or a statement or produce documents or other things with any proceeding in a tribunal outside this State concerning abusive litigation involving legally protected health care activity.

(b) Any aggrieved person, provider, payer, or other entity, including any defendant in abusive litigation, may move to modify or quash any subpoena issued in connection with such abusive litigation on any grounds provided by court rule, statute, or on the grounds that the subpoena is inconsistent with the public policy of this State.

§ 7305. CHOICE OF LAW

Notwithstanding any general or special law or common law conflict of law rule to the contrary, the laws of this State shall govern in any case or controversy heard in this State related to legally protected health care activity, except as may be required by federal law.

§ 7306. NONCOOPERATION

(a) No public agency or employee, appointee, officer or official, or any other person acting on behalf of a public agency may knowingly provide any information or expend or use time, money, facilities, property, equipment, personnel, or other resources in furtherance of any interstate investigation or

proceeding seeking to impose civil or criminal liability upon a person or entity for:

(1) the provision, seeking or receipt of, or inquiring about legally protected health care activity that is legal in this State; or

(2) assisting any person or entity providing, seeking, receiving, or responding to an inquiry about legally protected health care activity that is legal in this State.

(b) This section shall not apply to:

(1) any investigation or proceeding where the conduct subject to potential liability under the investigation or proceeding would be subject to liability under the laws of this State if committed in this State; or

(2) any action taken by the judicial branch in judicial proceedings;

(3) a public agency or employee, appointee, officer or official who, in the course of normal business, is responding to a warrant or extradition demand on the good faith belief that the warrant or demand is valid in this State.

* * * Freedom of Access to Clinics * * *

Sec. 4. 13 V.S.A. § 1033 is added to read:

§ 1033. INTERFERENCE WITH ACCESS TO HEALTH CARE FACILITY

(a) The General Assembly finds that:

(1) all persons must be able to access health care facilities for the purpose of obtaining or providing legally protected health care activity;

(2) the exercise of a person's right to protest or counsel against certain medical procedures must be balanced against another person's right to obtain or provide legally protected health care activity in an unobstructed manner;

(3) preventing the willful obstruction of a person's access to legally protected health care activity at a health care facility is a matter of public concern; and

(4) it is necessary and appropriate to prohibit individuals from knowingly obstructing another person's entry to or exit from a health care facility that provides legally protected health care activity.

(b) As used in this section:

(1) "Health care facility" means a hospital, ambulatory surgical center, health center, clinic, health care provider's office, or other facility that

provides reproductive health care services or gender-affirming health care services, and includes the building or structure in which the facility is located.

(2) “Health care provider” has the same meaning as provided in 18 V.S.A. § 9402.

(3) “Legally protected health care activity” has the same meaning as provided in 1 V.S.A. § 150.

(4) “Physical obstruction” means rendering impassable ingress to or egress from a facility that provides legally protected health care activity or rendering passage to or from such a facility unreasonably difficult or hazardous.

(c) No person shall:

(1) by force or threat of force or by physical obstruction knowingly injure, intimidate, or interfere with, or attempt to injure, intimidate, or interfere with, another person because such other person was or is obtaining or providing legally protected health care activity; or

(2) knowingly damage the property of a health care facility, or attempt to do so, because such facility provides legally protected health care activity.

(d) A person who violates this section shall be assessed a civil penalty of not more than \$300.00.

(e) Nothing in this section shall be construed to prohibit any constitutionally protected activity.

Sec. 5. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(31) Violations of 13 V.S.A. § 1033 relating to interference with access to health care facility.

* * * Prohibition Against Extradition of Person Charged with Engaging
in Legally Protected Health Care Activity * * *

Sec. 6. 13 V.S.A. § 4970 is added to read:

§ 4970. LEGALLY PROTECTED HEALTH CARE ACTIVITY

EXCEPTION

Notwithstanding any other provision in this chapter to the contrary, except as required by federal law, the Governor shall not surrender a person charged in another state as a result of engaging in legally protected health care activity as defined in 1 V.S.A. § 150 unless the executive authority of the demanding state alleges in writing that the accused was physically present in the demanding state at the time of the commission of the alleged offense and that thereafter the accused fled from the demanding state.

* * * Prohibition of Issuance of a Summons Concerning a Person Charged
with Engaging in Legally Protected Health Care Activity * * *

Sec. 7. 13 V.S.A. § 6650 is added to read:

§ 6650. LEGALLY PROTECTED HEALTH CARE ACTIVITY

EXCEPTION

(a) Access to reproductive health care services and gender-affirming health care services is a legal right in this State. Interference with legally protected health care activity, whether or not under the color of law, is against the public policy of this State.

(b) Notwithstanding any other provision in this chapter to the contrary, except as required by federal law, a court shall not issue a summons where a prosecution is pending in another state concerning legally protected health care activity as defined in 1 V.S.A. § 150 or where a grand jury investigation concerning legally protected health care activity has commenced or is about to commence for a criminal violation of a law of such other state unless the acts forming the basis of the prosecution or investigation would also constitute an offense if occurring entirely in this State.

* * * Address Confidentiality for Persons Engaging in
Legally Protected Health Care Activity * * *

Sec. 8. 15 V.S.A. chapter 21, subchapter 3 is amended to read:

Subchapter 3. Address Confidentiality for Victims of Domestic Violence,
Sexual Assault, or Stalking

§ 1150. FINDINGS AND INTENT

(a) The General Assembly finds that:

(1) persons attempting to escape from actual or threatened domestic violence, sexual assault, and stalking, and human trafficking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them; and

(2) persons who provide reproductive health care services or gender-affirming health care services, persons who assist others in obtaining reproductive health care services or gender-affirming health care services, and persons who exercise their legal right to obtain reproductive health care services or gender-affirming health care services in this State may be harassed, intimidated, or threatened because of their legally protected health care activity.

(b) It is the purpose of this subchapter to:

(1) ~~enable state~~ State and local agencies to respond to requests for public records without disclosing the location of ~~a victim of domestic violence, sexual assault, or stalking~~ persons identified in subsection (a) of this section;

(2) promote interagency cooperation with the Secretary of State in providing address confidentiality for ~~victims of domestic violence, sexual assault, and stalking~~ persons identified in subsection (a) of this section; and

(3) enable State and local agencies and ~~local agencies~~ school districts to accept a Program participant's use of an address, and local agencies to accept an address, designated by the Secretary of State as a substitute mailing address.

§ 1151. DEFINITIONS

Unless the context clearly requires otherwise, the definitions in this section apply throughout the subchapter.

(1) "Actual address" means the physical location where the applicant resides and may include a school address or work address of an individual, as specified on the individual's application to be a Program participant under this chapter.

(2) "Agency" means any subdivision of the State of Vermont, a municipality, or a subdivision of a municipality.

(3) "Domestic violence" means an act of abuse as defined in subdivision 1101(1) of this title and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

(4) "Gender-affirming health care services" has the same meaning as provided in 1 V.S.A. § 150.

(5) “Human trafficking” means conduct prohibited by 13 V.S.A. § 2652 or 2653, and includes a threat of such, regardless of whether the conduct or threat of conduct has been reported to law enforcement officers.

~~(5)~~(6) “Law enforcement agency” means the Department of Public Safety, a municipal police department, a sheriff’s department, the Attorney General’s Office, a State’s Attorney’s Office, or certified law enforcement officers of the Department of Motor Vehicles, Agency of Natural Resources, or Department of Liquor and Lottery. “Law enforcement agency” ~~shall~~ also ~~mean~~ means the Department for Children and Families when engaged in:

(A) the investigation of child abuse and neglect;

(B) the delivery of services to families and children with whom the Department is working pursuant to the provisions of 33 V.S.A. chapters 51, 52, and 53; or

(C) the performance of the Department’s responsibilities pursuant to an interstate compact to which the State is a party.

~~(6)~~(7) “Law enforcement purpose” means all matters relating to:

(A) the prevention, investigation, prosecution, or adjudication of criminal offenses, civil matters, or juvenile matters;

(B) the investigation, prosecution, adjudication, detention, supervision, or correction of persons suspected, charged, or convicted of criminal offenses or juvenile delinquencies;

(C) the protection of the general health, welfare, and safety of the public or the State of Vermont;

(D) the execution and enforcement of court orders;

(E) service of criminal or civil process or court orders;

(F) screening for criminal justice employment;

(G) other actions taken in performance of official duties, as set forth by statutes, rules, policies, judicial case law, and the U.S. and Vermont Constitutions; and

(H) criminal identification activities, including the collection, storage, and dissemination of criminal history records, as defined in 20 V.S.A. § 2056a(a)(1), sex offender registry information, and DNA material and information.

~~(7)~~(8) “Program participant” means a person certified as a Program participant under this chapter.

~~(8)~~(9) “Public record” means a public record as defined in 1 V.S.A. § 317.

(10) “Reproductive health care services” has the same meaning as provided in 1 V.S.A. § 150.

~~(9)~~(11) “Secretary” means the Vermont Secretary of State.

~~(40)~~(12) “Sexual assault” means an act of assault as defined in 13 V.S.A. § 3252(a) or (b) (sexual assault) or 3253(a) (aggravated sexual assault), and includes a threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.

~~(41)~~(13) “Stalking” means conduct as defined in 13 V.S.A. § 1061 (stalking) or 1063 (aggravated stalking), and includes a threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.

~~(42)~~(14) “Substitute address” means the Secretary’s designated address for the Address Confidentiality Program.

§ 1152. ADDRESS CONFIDENTIALITY PROGRAM; APPLICATION;

CERTIFICATION

(a) An adult person, a parent, or a legal guardian acting on behalf of a minor, or a legal guardian acting on behalf of an incapacitated person may apply to the Secretary of State to have an address designated by the Secretary serve as the person’s address or the address of the minor or incapacitated person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State, and if it contains:

(1) a statement made under oath by the applicant that:

(A) the applicant, or the minor or incapacitated person on whose behalf the application is made;

(i) is a victim of domestic violence, sexual assault, stalking, or human trafficking; or

(ii) is a person providing, assisting another person in obtaining, or obtaining for themselves reproductive health care services or gender-affirming health care services in this State;

(B) the applicant fears for ~~his or her~~ the applicant’s safety or ~~his or her~~ the applicant’s children’s safety, or the safety of the minor or incapacitated person on whose behalf the application is made;

(C) the parent or legal guardian applying on behalf of a minor or incapacitated person has legal authority to act on the person’s behalf;

(D) if the applicant is under the supervision of the Department of Corrections, the applicant has notified the Department of the actual address and the applicant authorizes the release of the actual address to the Department; and

(E) if the applicant is required to report the actual address for the Sex Offender Registry under 13 V.S.A. chapter 167, subchapter 3, the applicant authorizes the release of the actual address to the Registry;

(2) a designation of the Secretary as agent for purposes of service of process and for the purpose of receipt of mail;

(3) the mailing address and e-mail address where the applicant can be contacted by the Secretary and the telephone number or numbers where the applicant can be called by the Secretary;

(4) the new address or addresses within Vermont that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, stalking, ~~or~~ human trafficking, harassment, intimidation, or threats; and

(5) the signature of the applicant and the name of any individual or representative of any office who assisted in the preparation of the application and the date on which the applicant signed the application.

(b) Applications shall be filed directly with the Office of the Secretary or through a certified applicant assistant.

(c) Upon receipt of a properly completed application, the Secretary shall certify the applicant as a Program participant. Applicants shall be certified for four years following the date of filing, unless the certification is withdrawn or cancelled before that date. The Secretary shall by rule establish a renewal procedure.

(d) A person who knowingly provides false or incorrect information to the Secretary as required by this chapter may be prosecuted under 13 V.S.A. § 2904.

(e) A Program participant shall notify the Secretary of State of a change of actual address within seven days ~~of~~ following the change of address.

(f) The Civil or Family Division of Washington County Superior Court shall have jurisdiction over petitions for protective orders filed by Program participants pursuant to 12 V.S.A. §§ 5133 and 5134, to sections 1103 and 1104 of this title, and to 33 V.S.A. § 6935. A Program participant may file a petition for a protective order in the county in which ~~he or she~~ the participant resides or in Washington County to protect the confidentiality of ~~his or her~~ the participant's address.

* * *

§ 1157. ASSISTANCE FOR PROGRAM APPLICANTS

The Secretary of State shall make available a list of State and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence, sexual assault, stalking, and human trafficking to assist persons applying to be ~~program~~ Program participants pursuant to subdivision 1152(a)(1)(A)(i) of this title. Such information provided by the Office of the Secretary or designees to applicants shall in no way be construed as legal advice.

* * *

§ 1160. ADOPTION OF RULES

(a) The Secretary of State shall adopt rules necessary to perform ~~his or her~~ the Secretary's duties under this subchapter relating to:

- (1) program application and certification;
- (2) certification cancellation;
- (3) agency use of designated addresses and exceptions;
- (4) voting by Program participants; and
- (5) recording of vital statistics for Program participants.

(b) All such rules shall conform with the findings and intent of the General Assembly, as described in section 1150 of this title, and shall be designed with an understanding of the needs and circumstances of ~~victims of domestic violence, sexual assault, stalking, and human trafficking~~ Program participants.

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES

- (a) This section and Secs. 1-7 shall take effect on passage.
- (b) Sec. 8 shall take effect on September 1, 2023.

The bill, having appeared on the Notice Calendar, was taken up and read the second time.

Pending the question, Shall the bill be amended as recommended by the Committee on Judiciary?, **Reps. Donahue of Northfield and Higley of Lowell** moved to amend the report of the Committee on Judiciary by striking out Sec. 9, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof the following:

* * * Protecting Health Care Providers' Rights of Conscience * * *

Sec. 9. 18 V.S.A. chapter 233 is added to read:

CHAPTER 233. HEALTH CARE FREEDOM OF CONSCIENCE ACT

§ 9751. TITLE

This chapter shall be known and may be cited as the “Health Care Freedom of Conscience Act.”

§ 9752. FINDINGS AND PURPOSE

(a) The General Assembly finds that:

(1) It is the public policy of the State of Vermont to respect and protect the fundamental right of conscience of health care providers.

(2) Without comprehensive protection, health care rights of conscience may be violated in various ways, such as harassment, demotion, salary reduction, transfer, termination, loss of staffing privileges, denial of aid or benefits, and refusal to license or refusal to certify.

(b) Based on the findings set forth in subsection (a) of this section, it is the purpose of this act to:

(1) Protect as a basic civil right the right of all health care providers and institutions to decline to counsel, advise, provide, perform, assist, or participate in providing or performing health care services that violate their consciences. These health care services may include abortion, artificial birth control, sterilization, artificial insemination, assisted reproduction, human embryonic stem-cell research, fetal experimentation, human cloning, physician-assisted suicide, and euthanasia.

(2) Prohibit all forms of discrimination, disqualification, coercion, disability, or liability upon health care providers and institutions that decline to perform or provide any health care service that violates their consciences.

§ 9753. DEFINITIONS

As used in this act:

(1) “Conscience” means the religious, moral, or ethical principles held by a health care provider or a health care institution. For purposes of this act, the conscience of a health care institution shall be determined by reference to its existing or proposed religious, moral, or ethical guidelines; mission statement; constitution; bylaws; articles of incorporation; rules or regulations; or other relevant documents.

(2) “Health care institution” means any public or private organization, corporation, partnership, sole proprietorship, association, agency, network,

joint venture, or other entity that is involved in providing health care services, including hospitals, clinics, medical centers, ambulatory surgical centers, private physicians' offices, pharmacies, nursing homes, university medical schools, nursing schools, medical training facilities, and other institutions and locations in which health care services are provided to any person.

(3) “Health care provider” means any individual who may be asked to participate in any way in a health care service, including a physician; physician assistant; nurse; nursing assistant; medical assistant; hospital employee; clinic employee; nursing home employee; pharmacist; pharmacy employee; researcher; medical or nursing school faculty, student, or employee; counselor; social worker; or any professional, paraprofessional, or other individual who furnishes or assists in the furnishing of health care services.

(4) “Health care service” means any phase of patient medical care, treatment, or procedure, including patient referral; counseling; therapy; testing; research; instruction; prescribing, dispensing, or administering any device, drug, or medication; surgery; or any other care or treatment rendered by health care providers or health care institutions.

(5) “Participate” in a health care service means to counsel, advise, provide, perform, assist in, refer for, admit for purposes of providing, or participate in providing any health care service or any form of a health care service.

(6) “This act” means the Health Care Freedom of Conscience Act established in this chapter.

§ 9754. FREEDOM OF CONSCIENCE OF HEALTH CARE PROVIDERS

(a) Freedom of conscience. A health care provider has the right not to participate, and no health care provider shall be required to participate, in a health care service that violates the provider's conscience.

(b) Immunity from liability. No health care provider shall be civilly, criminally, or administratively liable for declining to participate in a health care service that violates the provider's conscience.

(c) Discrimination.

(1) It shall be unlawful for any person, health care provider, health care institution, public or private institution, public official, or any board that certifies competency in medical specialties to discriminate against any health care provider in any manner based on the provider declining to participate in a health care service that violates the provider's conscience.

(2) For purposes of this act, discrimination includes termination; transfer; refusal of staff privileges; refusal of board certification; adverse

administrative action; demotion; loss of career specialty; reassignment to a different shift; reduction of wages or benefits; refusal to award any grant, contract, or other program; refusal to provide residency training opportunities; giving an incomplete or failing grade to a student; denying a student an earned distinction or the opportunity for distinction; denying a student the opportunity for graduation; or any other penalty or retaliatory disciplinary action.

§ 9755. FREEDOM OF CONSCIENCE OF HEALTH CARE INSTITUTIONS

(a) Freedom of conscience. A health care institution has the right not to participate, and no health care institution shall be required to participate, in a health care service that violates its conscience.

(b) Immunity from liability. A health care institution that declines to provide or participate in a health care service that violates its conscience shall not be civilly, criminally, or administratively liable if the institution provides a consent form to be signed by a patient before admission to the institution stating that it reserves the right to decline to provide or participate in health care services that violate its conscience.

(c) Discrimination. It shall be unlawful for any person, public or private institution, or public official to discriminate against any health care institution or any person, association, corporation, or other entity attempting to establish a new health care institution or operating an existing health care institution, in any manner, including any denial, deprivation, or disqualification with respect to license; any aid, assistance, benefit, or privilege, including staff privileges; or any authorization, including authorization to create, expand, improve, acquire, affiliate, or merge with any health care institution because the institution or person, association, or corporation planning, proposing, or operating a health care institution declines to participate in a health care service that violates the health care institution's conscience.

(d) Denial of aid or benefit. It shall be unlawful for any public official, agency, institution, or entity to deny any form of aid, assistance, grants, or benefits or in any other manner to coerce, disqualify, or discriminate against any person, association, corporation, or other entity attempting to establish a new health care institution or operating an existing health care institution because the existing or proposed health care institution declines to participate in a health care service that violates the institution's conscience.

§ 9756. CIVIL REMEDIES

(a) Civil action. A civil action for damages or injunctive relief, or both, may be brought for a violation of any provision of this act. It shall not be a defense to any claim arising out of a violation of this act that the violation was

necessary to prevent additional burden or expense on any other health care provider, health care institution, individual, or patient.

(b) Damage remedies. Any individual, association, corporation, entity, or health care institution injured by any public official, private individual, association, agency, entity, or corporation by reason of any conduct prohibited by this act may commence a civil action. Upon finding a violation of this act, the aggrieved party shall be entitled to recover treble damages, including pain and suffering sustained by the individual, association, corporation, entity, or health care institution; the costs of the action; and reasonable attorney's fees. These damage remedies shall be cumulative and not exclusive of other remedies afforded under any other State or federal law.

(c) Injunctive remedies. The court in a civil action brought pursuant to this section may award injunctive relief, including ordering reinstatement of a health care provider to the provider's prior employment position.

* * * Effective Dates * * *

Sec. 10. EFFECTIVE DATES

(a) Secs. 1–7, Sec. 9, and this section shall take effect on passage.

(b) Sec. 8 (15 V.S.A. chapter 21, subchapter 3) shall take effect on September 1, 2023.

Rep. Bartholomew of Hartland raised a Point of Order in that the amendment was not germane to the bill under Mason's Sec. 402, which the Chair ruled well-taken because the bill would provide civil and criminal procedures for people obtaining or providing specific legally protected health care activities, whereas the amendment would provide health care providers and institutions with a legal right to not participate in any health care services that would violate their conscience, and therefore the amendment introduced an independent question and would change the purpose, scope, or object of the bill.

Thereupon, the bill was amended as recommended by the Committee on Judiciary and third reading was ordered.

Adjournment

At four o'clock and twenty-two minutes in the afternoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.