

Journal of the House

Tuesday, February 13, 2024

At ten o'clock in the forenoon, **Rep. Long of Newfane** called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. John O'Brien of Tunbridge.

Pledge of Allegiance

Page Om Shukla of South Burlington led the House in the Pledge of Allegiance.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time, and referred to committee as follows:

H. 851

By Reps. Brady of Williston, Sibia of Dover, Arsenault of Williston, Austin of Colchester, Burrows of West Windsor, Buss of Woodstock, Carpenter of Hyde Park, Christie of Hartford, Graning of Jericho, McCann of Montpelier, Minier of South Burlington, Priestley of Bradford, and Stone of Burlington,

House bill, entitled

An act relating to creating a Department and Commissioner of Education and amending the duties and composition of the State Board of Education

To the Committee on Education.

H. 852

By Rep. Brady of Williston,

House bill, entitled

An act relating to creating a statewide vision for the future of education in Vermont

To the Committee on Education.

H. 853

By Rep. Carroll of Bennington,

House bill, entitled

An act relating to permitting dogs in retail stores

To the Committee on Commerce and Economic Development.

Senate Bill Referred**S. 180**

Senate bill, entitled

An act relating to the investment of State funds in credit unions

Was read the first time and referred to the Committee on Ways and Means.

Bill Referred to Committee on Appropriations**H. 297**

House bill, entitled

An act relating to providing workers' compensation coverage for post-traumatic stress disorder suffered by certain State employees

Appearing on the Notice Calendar, and pursuant to House Rule 35(a), carrying an appropriation, was referred to the Committee on Appropriations.

Message from the Senate No. 19

A message was received from the Senate by Ms. Gradel, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 839. An act related to fiscal year 2024 budget adjustments.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 45. Joint resolution relating to weekend adjournment on February 16, 2024.

In the adoption of which the concurrence of the House is requested.

Speaker presiding.

Third Reading; Bill Passed

H. 849

House bill, entitled

An act relating to technical corrections for the 2024 legislative session

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

Action on Bill Postponed

H. 247

House bill, entitled

An act relating to Vermont's adoption of the Occupational Therapy Licensure Compact

Was taken up and, pending second reading, on motion of **Rep. Farlice-Rubio of Barnet**, action on the bill was postponed until February 14, 2024.

Second Reading; Bill Amended; Third Reading Ordered

H. 563

Rep. Burditt of West Rutland, for the Committee on Judiciary, to which had been referred House bill, entitled

An act relating to attempted auto theft

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

Sec. 1. 13 V.S.A. § 2501 is amended to read:

§ 2501. GRAND LARCENY

(a) A person who steals from the actual or constructive possession of another, other than from ~~his or her~~ the person, money, goods, chattels, bank notes, bonds, promissory notes, bills of exchange or other bills, orders, or certificates, or a book of accounts for or concerning money, or goods due or to become due or to be delivered, or a deed or writing containing a conveyance of land, or any other valuable contract in force, or a receipt, release or defeasance, writ, process, or public record, shall be imprisoned not more than 10 years or fined not more than \$5,000.00, or both, if the money or other property stolen exceeds \$900.00 in value.

(b) Notwithstanding section 9 of this title, a person convicted of attempting to steal a motor vehicle in violation of this section shall be imprisoned not more than five years or fined not more than \$2,500.00, or both.

Sec. 2. 13 V.S.A. § 3705 is amended to read:

§ 3705. UNLAWFUL TRESPASS

(a)(1) A person shall be imprisoned for not more than three months or fined not more than \$500.00, or both, if, without legal authority or the consent of the person in lawful possession, ~~he or she~~ the person enters or remains on any land or in any place as to which notice against trespass is given by:

(A) actual communication by the person in lawful possession or ~~his or her~~ the person's agent or by a law enforcement officer acting on behalf of such person or ~~his or her~~ the person's agent;

(B) signs or placards so designed and situated as to give reasonable notice; or

(C) in the case of abandoned property:

(i) signs or placards, posted by the owner, the owner's agent, or a law enforcement officer, and so designed and situated as to give reasonable notice; or

(ii) actual communication by a law enforcement officer.

(2) As used in this subsection, "abandoned property" means:

(A) real property on which there is a vacant structure that for the previous 60 days has been continuously unoccupied by a person with the legal right to occupy it and with respect to which the municipality has by first-class mail to the owner's last known address provided the owner with notice and an opportunity to be heard; and

(i) property taxes have been delinquent for six months or more; or

(ii) one or more utility services have been disconnected; or

(B) a railroad car that for the previous 60 days has been unmoved and unoccupied by a person with the legal right to occupy it.

(b) Prosecutions for offenses under subsection (a) of this section shall be commenced within 60 days following the commission of the offense and not thereafter.

(c) A person who enters the motor vehicle of another and knows or should know that the person does not have legal authority or the consent of the person in lawful possession of the motor vehicle to do so shall be imprisoned not more than three months or fined not more than \$500.00, or both. For a second

or subsequent offense, a person who violates this subsection shall be imprisoned not more than one year or fined not more than \$500.00, or both. Notice against trespass shall not be required under this subsection.

(d) A person who enters a building other than a residence, whose access is normally locked, whether or not the access is actually locked, or a residence in violation of an order of any court of competent jurisdiction in this State shall be imprisoned for not more than one year or fined not more than \$500.00, or both.

~~(d)~~(e) A person who enters a dwelling house, whether or not a person is actually present, knowing that ~~he or she~~ the person is not licensed or privileged to do so shall be imprisoned for not more than three years or fined not more than \$2,000.00, or both.

~~(e)~~(f) A law enforcement officer shall not be prosecuted under subsection (a) of this section if ~~he or she~~ the law enforcement officer is authorized to serve civil or criminal process, including citations, summons, subpoenas, warrants, and other court orders, and the scope of ~~his or her~~ the law enforcement officer's entrance onto the land or place of another is ~~no~~ not more than necessary to effectuate the service of process.

Sec. 3. 23 V.S.A. § 1094 is amended to read:

§ 1094. OPERATION WITHOUT CONSENT OF OWNER;

AGGRAVATED OPERATION WITHOUT CONSENT OF OWNER

(a) A person commits the crime of operation without consent of the owner if:

(1) the person takes, obtains, operates, uses, or continues to operate the motor vehicle of another when the person should have known that the person did not have the consent of the owner to do so; or

(2) the person, without the consent of the owner, knowingly takes, obtains, operates, uses, or continues to operate the motor vehicle of another when the person knows they did not have the consent of the owner to do so.

* * *

(c) A person convicted under subdivision (a)(1) of this section shall be imprisoned not more than three months or fined not more than \$500.00, or both. A person convicted under subdivision (a)(2) of this section of operation without consent of the owner shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

and that after passage the title of the bill be amended to read: “An act relating to criminal motor vehicle offenses involving unlawful trespass, theft, or unauthorized operation”

The bill, having appeared on the Notice Calendar, was taken up, read the second time, report of the Committee on Judiciary agreed to, and third reading ordered.

Second Reading; Bill Amended; Third Reading Ordered**H. 649**

Rep. McCarthy of St. Albans City, for the Committee on Government Operations and Military Affairs, to which had been referred House bill, entitled

An act relating to the Vermont Truth and Reconciliation Commission

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

Sec. 1. 2022 Acts and Resolves No. 128, Sec. 4 is amended to read:

Sec. 4. REPEAL

1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on ~~July 1, 2026~~ May 1, 2027.

Sec. 2. 1 V.S.A. § 903 is amended to read:

§ 903. COMMISSIONERS

* * *

(c) The term of each commissioner shall begin on the date of appointment and end on ~~July 1, 2026~~ May 1, 2027.

Sec. 3. 1 V.S.A. § 904 is amended to read:

§ 904. SELECTION PANEL; MEMBERSHIP; DUTIES

(a)(1) The Selection Panel shall be composed of ~~seven members selected on or before September 1, 2022 by a majority vote of the following five members:~~

(A)(1) the Executive Director of Racial Equity or designee;

(B)(2) the Executive Director of the Vermont Center for Independent Living or designee;

~~(C)(3)~~ an individual, who shall not be a current member of the General Assembly, appointed by the Speaker of the House;

~~(D)(4)~~ an individual, who shall not be a current member of the General Assembly, appointed by the Committee on Committees; and

~~(E)(5)~~ an individual appointed by the Chief Justice of the Vermont Supreme Court.

~~(2) The individuals identified in subdivision (1) of this subsection:~~

~~(A) shall hold their first meeting on or before August 1, 2022 at the call of the individual appointed by the Chief Justice of the Vermont Supreme Court; and~~

~~(B) are encouraged to appoint individuals to the Selection Panel who include members of the populations and communities identified pursuant to subdivisions 902(b)(1)(A) (D) of this chapter and who are diverse with respect to socioeconomic status, work, education, geographic location, gender, and sexual identity.~~

~~(3) Individuals selected pursuant to subdivision (1) of this subsection who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than two meetings. These payments shall be made from amounts appropriated to the Truth and Reconciliation Commission.~~

(b)(1) The Selection Panel shall select and appoint the commissioners of the Truth and Reconciliation Commission as provided pursuant to section 905 of this chapter.

(2) To enable it to carry out its duty to select and appoint the commissioners of the Truth and Reconciliation Commission as provided pursuant to section 905 of this chapter, the Panel may:

(A) adopt procedures as necessary to carry out the duties set forth in section 905 of this chapter; and

(B) ~~establish and maintain a principal office;~~

(C) meet and hold hearings at any place in this State; and

~~(D) hire temporary staff to provide administrative assistance during the period from September 1, 2022 through January 15, 2023, provided that if the Panel extends the time to select commissioners pursuant to subdivision 905(c)(1) of this chapter, it may retain staff to provide administrative assistance through March 31, 2023.~~

(c) The term of each member of the Panel shall begin on the date of appointment and end on ~~January 15, 2023, except if the Panel extends the time to select commissioners pursuant to subdivision 905(c)(1) of this chapter, the term of the Panel members shall end on March 31, 2023~~ May 1, 2027.

(d) The Panel shall select a chair and a vice chair from among its members.

(e)(1) Meetings shall be held at the call of the Chair or at the request of four or more members of the Panel.

(2) A majority of the current membership of the Panel shall constitute a quorum, and actions of the Panel may be authorized by a majority of the members present and voting at a meeting of the Panel.

(f) Members of the Panel who are not otherwise compensated by the State shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than 20 meetings during fiscal year 2023 meetings to carry out the Panel's duties pursuant to this section and sections 905 and 905a of this chapter. These payments shall be made from amounts appropriated to the Truth and Reconciliation Commission.

(g) The Panel shall have the administrative and legal assistance of the Truth and Reconciliation Commission.

(h)(1) A member of the Panel that is not serving ex officio may be removed by the appropriate appointing authority for incompetence, failure to discharge the member's duties, malfeasance, or illegal acts.

(2) A vacancy occurring on the Panel shall be filled by the appropriate appointing authority for the remainder of the term.

Sec. 4. 1 V.S.A. § 905 is amended to read:

§ 905. SELECTION OF COMMISSIONERS

* * *

(d) The Panel shall fill any vacancy occurring among the commissioners within 60 days after the vacancy occurs in the manner set forth in subsections (a) and (b) of this section. A commissioner appointed to fill a vacancy pursuant to this subsection shall be appointed to serve for the balance of the unexpired term.

Sec. 5. APPOINTMENT TO FILL EXISTING COMMISSION VACANCY

The Selection Panel established pursuant to 1 V.S.A. § 905 shall fill the vacancy existing on the Truth and Reconciliation Commission on the effective date of this act not later than 60 days after the appointive members of the Panel are appointed.

Sec. 6. 1 V.S.A. § 905a is added to read:

§ 905a. REMOVAL OR REPRIMAND OF COMMISSIONERS FOR
MISCONDUCT

The Selection Panel may, after notice and an opportunity for a hearing, reprimand or remove a commissioner for incompetence, failure to discharge the commissioner's duties, malfeasance, illegal acts, or other actions that the Panel determines would substantially and materially harm the credibility of the Truth and Reconciliation Commission or its ability to carry out its work pursuant to the provisions of this chapter. Notwithstanding subdivision 904(e)(2) of this chapter, the reprimand or removal of a commissioner shall only be authorized by a vote of the majority of the members of the Panel.

Sec. 7. 1 V.S.A. § 906 is amended to read:

§ 906. POWERS AND DUTIES OF THE COMMISSIONERS

* * *

(b) Powers. To carry out its duties pursuant to this chapter, the commissioners may:

* * *

(13)(A) Establish groups in which individuals who have experienced institutional, structural, or systemic discrimination or are a member of a population or community that has experienced institutional, structural, or systemic discrimination may participate for purposes of sharing experiences and providing mutual support.

(B) Commissioners shall not participate in any meeting or session of a group established pursuant to this subdivision (13).

(C) Groups established pursuant to this subdivision (13) may continue to exist after the date on which the Commission ceases to exist, provided that after that date Commission staff shall no longer provide any assistance or services to the groups and Commission funds shall no longer be spent in support of the groups.

Sec. 8. 1 V.S.A. § 908 is amended to read:

§ 908. REPORTS

* * *

(b)(1) On or before ~~June April~~ 15, ~~2026~~ 2027, the Commission shall submit a final report incorporating the findings and recommendations of each committee. Each report shall detail the findings and recommendations of the relevant committee and shall include recommendations for actions that can be

taken to eliminate ongoing instances of institutional, structural, and systemic discrimination and to address the harm caused by historic instances of institutional, structural, and systemic discrimination.

(2) The Commission shall, on or before ~~January~~ October 15, 2026, make a draft of the final report publicly available and provide copies of the draft to interested parties from the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter and other interested parties. The Commission shall provide the interested parties and members of the public with not less than 60 days to review the draft and provide comments on it. The Commission shall consider fully all comments submitted in relation to the draft and shall include with the final version of the report a summary of all comments received and a concise statement of the reasons why the Commission decided to incorporate or reject any proposed changes. Comments submitted in relation to the final report shall be made available to the public in a manner that complies with the requirements of section 940 909 of this chapter.

* * *

Sec. 9. 1 V.S.A. § 909 is amended to read:

§ 909. ACCESS TO INFORMATION; CONFIDENTIALITY

* * *

(d) Private proceedings.

(1) The Notwithstanding any provision of chapter 5, subchapter 2 of this title, the Vermont Open Meeting Law, or section 911 of this chapter to the contrary, the Commission shall permit any individual who is interviewed by the Commission to elect to have their interview conducted in a manner that protects the individual's privacy and to have any recording of the interview kept confidential by the Commission. Any other record or document produced in relation to an interview conducted pursuant to this subdivision (d)(1) shall only be available to the public in an anonymized form that does not reveal the identity of any individual.

* * *

Sec. 10. 1 V.S.A. § 911 is added to read:

§ 911. LIMITED ACCESS COMMISSION MEETINGS; EXCEPTION TO
OPEN MEETING LAW

(a)(1) As used in this subsection, "limited access meeting" means a meeting of the Commission that is livestreamed and video recorded to which

access and participation by members of the general public is limited as provided in this subsection.

(2) Upon a finding by the Commission that there are material threats to the health or safety of the Commission, its staff, witnesses, or invitees, the Commission may hold a limited access meeting. During a limited access meeting, the Commission may restrict attendance at the meeting, whether the attendance is in person or by electronic or other means, and participation in the meeting to:

(A) Commission staff and legal counsel;

(B) persons who are providing testimony or information to the Commission during the meeting;

(C) members of the media; and

(D) other persons whose presence the Commission determines is needed at the meeting.

(3)(A) The Commission shall include in the agenda for a limited access meeting information that allows the public to directly access a livestream of the meeting. The video recording of any limited access meeting shall be posted and made available for inspection or copying under the Public Records Act.

(B) The Commission shall not be required to livestream or video record any portions of a limited access meeting that are held in executive session pursuant to 1 V.S.A. § 313.

(4) Limited access meetings shall only be conducted electronically to the extent that electronic meetings are permitted for public bodies and in a manner that is consistent with applicable laws governing electronic meetings of public bodies.

(b) Notwithstanding any provision of chapter 5, subchapter 2 of this title, the deliberations of a quorum or more of the members of the Commission shall not be subject to the Vermont Open Meeting Law.

Sec. 11. LEGISLATIVE INTENT

It is the intent of the General Assembly that limited access meetings held by the Truth and Reconciliation Commission pursuant to 1 V.S.A. § 911 shall be:

(1) utilized only when necessary to ensure the safety of the proceedings and to protect persons who may have experienced trauma who come before the Commission; and

(2) conducted in a manner that is trauma-informed and best ensures the safety of all participants.

Sec. 12. 1 V.S.A. § 912 is added to read:

§ 912. GROUP SESSIONS; DUTY OF CONFIDENTIALITY

(a) The sessions of groups established pursuant to subdivision 906(b)(13) of this chapter shall be confidential and privileged. Participants in a group session, including Commission staff or individuals whom the Commission contracts with to facilitate group sessions, shall be subject to a duty of confidentiality and shall keep confidential any information gained during a group session.

(b) A person who attended a group session may bring a private action in the Civil Division of the Superior Court for damages resulting from a breach of the duty of confidentiality established pursuant to this section.

(c) This section shall not be construed to limit or otherwise affect the application of a common law duty of confidentiality to group sessions and any action that may be brought based on a breach of that duty.

(d) Nothing in this section shall be construed to prohibit the limited disclosure of information to specific persons under the following circumstances:

(1) The disclosure:

(A) relates to a threat or statement of a plan made during a group session that the individual reasonably believes is likely to result in death or bodily injury to themselves or others or damage to the property of themselves or another person; and

(B) is made to law enforcement authorities or another person that is reasonably able to prevent or lessen the threat.

(2) The disclosure is based on a reasonable suspicion of abuse or neglect of a child or vulnerable adult and a report is made in accordance with the provisions of 33 V.S.A. § 4914 or 33 V.S.A. § 6903 or to comply with another law.

(e) The Commission shall ensure that all participants in a group session are provided with notice of the provisions of this section, including any rights and obligations of participants that are established pursuant to this section.

(f) As used in this section, “group session” means any meeting of a group established pursuant to subdivision 906(b)(13) of this chapter for purposes of the participants sharing or discussing their experiences and providing mutual support. “Group session” does not include any gathering of the participants in

a group established pursuant to subdivision 906(b)(13) of this chapter that includes one or more members of the Commission.

Sec. 13. APPROPRIATION

The sum of \$1,100,000.00 is appropriated from the General Fund to the Truth and Reconciliation Commission in fiscal year 2025 for the operating expenses of the Commission.

Sec. 14. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Scheu of Middlebury, for the Committee on Appropriations, recommended that the report of the Committee on Government Operations and Military Affairs be amended as follows:

By striking out Sec. 13, appropriation, in its entirety and inserting in lieu thereof the following:

Sec. 13. [Deleted.]

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and the report of the Committee on Government Operations and Military Affairs was amended as recommended by the Committee on Appropriations.

Pending the question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, **Rep. Donahue of Northfield** moved to further amend the report of the Committee on Government Operations, as amended, as follows:

First: By striking out Sec. 10, 1 V.S.A. § 911, in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. 1 V.S.A. § 911 is added to read:

§ 911. LIMITED ACCESS COMMISSION MEETINGS; EXCEPTION TO

OPEN MEETING LAW

(a)(1) As used in this subsection, “limited access meeting” means a meeting of the Commission that is livestreamed and video recorded to which access and participation by members of the general public is limited as provided in this subsection.

(2) Upon a finding by the Commission that there are material threats to the health or safety of the Commission, its staff, witnesses, or invitees, the Commission may hold a limited access meeting. During a limited access meeting, the Commission may restrict attendance at the meeting, whether the

attendance is in person or by electronic or other means, and participation in the meeting to:

(A) Commission staff and legal counsel;

(B) persons who are providing testimony or information to the Commission during the meeting;

(C) members of the media; and

(D) other persons whose presence the Commission determines is needed at the meeting.

(3)(A) The Commission shall include in the agenda for a limited access meeting information that allows the public to directly access a livestream of the meeting. The video recording of any limited access meeting shall be posted and made available for inspection or copying under the Public Records Act.

(B) The Commission shall not be required to livestream or video record any portions of a limited access meeting that are held in executive session pursuant to 1 V.S.A. § 313.

(4) Limited access meetings shall only be conducted electronically to the extent that electronic meetings are permitted for public bodies and in a manner that is consistent with applicable laws governing electronic meetings of public bodies.

(5) The Commission shall provide an opportunity for public comment related to the topics listed on the agenda of any limited access meeting and any other issues or topics that are discussed during a limited access meeting. Any public comment received shall be included in the record of the limited access meeting.

(b)(1) Notwithstanding any provision of chapter 5, subchapter 2 of this title, the deliberations of a quorum or more of the members of the Commission shall not be subject to the Vermont Open Meeting Law.

(2) The Commission shall periodically post to the Commission's website a short summary of the deliberative meetings held by the commissioners pursuant to this subsection.

(3) As used in this subsection, "deliberations" has the same meaning as in 1 V.S.A. § 310(2).

Second: By striking out Sec. 11, legislative intent, in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

Sec. 11. LEGISLATIVE INTENT

It is the intent of the General Assembly that:

(1) the Truth and Reconciliation Commission work in an open, transparent, and inclusive manner to ensure the credibility and integrity of its work and strive to maximize opportunities to conduct its business in public meetings;

(2) specific exceptions to the Open Meeting Law, in recognition of the highly sensitive nature of the Truth and Reconciliation Commission's charge, will enable the Commission to carry out its duties in a manner that:

(A) preserves the safety of participants in the Commission's work;

(B) does not perpetuate or exacerbate harm experienced by participants; and

(C) protects participants from additional trauma; and

(3) limited access meetings held by the Truth and Reconciliation Commission pursuant to 1 V.S.A. § 911 shall be:

(A) utilized only when necessary to ensure the safety of the proceedings and to protect persons who may have experienced trauma who come before the Commission; and

(B) conducted in a manner that is trauma-informed and best ensures the safety of all participants.

Which was agreed to.

Thereafter, the question, Shall the bill be amended as recommended by the Committee on Government Operations and Military Affairs, as amended?, was agreed to and third reading was ordered.

Adjournment

At eleven o'clock and one minute in the forenoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at three o'clock in the afternoon.