

# Journal of the Senate

FRIDAY, MARCH 17, 2023

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Rick Swanson of Stowe.

## Bills Referred to Committee on Appropriations

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

**S. 100.** An act relating to housing opportunities made for everyone.

**S. 133.** An act relating to miscellaneous changes to education law.

## Joint Resolution Placed on Calendar

### J.R.H. 3.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution authorizing the Green Mountain Boys State educational program to use the State House facilities on June 29, 2023

by: Representative Marcotte of Coventry

Whereas, the American Legion Department of Vermont sponsors the Green Mountain Boys State educational program, providing a group of boys entering the 12th grade a special opportunity to study the workings of State government, including conducting a mock legislative session at the State House, and

Whereas, this special experience is a unique civic lesson of lasting value for the participants, now therefore be it

Resolved by the Senate and House of Representatives:

That subject to the determination of and limitations that the Sergeant at Arms may establish, the Green Mountain Boys State educational program is authorized to use the chambers and committee rooms of the State House on Thursday, June 29, 2023, 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 Department of Vermont.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

#### **Bill Introduced**

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

#### **S. 134.**

By Senators Collamore, Chittenden, Gulick, Harrison, Lyons, McCormack, Norris, Perchlik, Ram Hinsdale, Vyhovsky, Weeks, Westman, White, Williams and Wrenner,

An act relating to requiring legislative approval prior to closing or reducing the size or scope of any Vermont State College library.

To the Committee on Education.

#### **Committee Bill Introduced**

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

#### **S. 135.**

By the Committee on Economic Development, Housing and General Affairs,

An act relating to the establishment of VT Saves.

#### **Bill Introduced**

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

#### **S. 136.**

By Senators Wrenner, Collamore, Weeks and Williams,

An act relating to addressing climate change.

To the Committee on Natural Resources and Energy.

#### **Bill Referred**

House bill of the following title was read the first time and referred:

**H. 461.**

An act relating to making miscellaneous changes in education laws.

To the Committee on Education.

**Bill Amended; Third Reading Ordered****S. 6.**

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

An act relating to custodial interrogation of juveniles.

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

Sec. 1. 13 V.S.A. § 5585 is amended to read:

§ 5585. ELECTRONIC RECORDING OF A CUSTODIAL INTERROGATION DEFINITIONS

(a) As used in this ~~section~~ subchapter:

(1) “Custodial interrogation” means any interrogation:

(A) involving questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject; and

(B) in which a reasonable person in the subject’s position would consider the person to be in custody, starting from the moment a person should have been advised of the person’s Miranda rights and ending when the questioning has concluded.

(2) “Deception” includes the knowing communication of false facts about evidence, the knowing misrepresentation of the accuracy of the facts, the knowing misrepresentation of the law, or the knowing communication of unauthorized statements regarding leniency.

~~(2)~~(3) “Electronic recording” or “electronically recorded” means an audio and visual recording that is an authentic, accurate, unaltered record of a custodial interrogation, or if law enforcement does not have the current capacity to create a visual recording, an audio recording of the interrogation.

(4) “Law enforcement officer” has the same meaning as in 20 V.S.A. § 2351a.

(5) “Government agent” means:

(A) a school resource or safety officer; or

(B) an individual acting at the request or direction of a school resource or safety officer or a law enforcement officer.

~~(3)(6)~~ “Place of detention” means a building or a police station that is a place of operation for the State police, a municipal police department, county sheriff department, or other law enforcement agency that is owned or operated by a law enforcement agency at which persons are or may be questioned in connection with criminal offenses or detained temporarily in connection with criminal charges pending a potential arrest or citation.

~~(4)(7)~~ “Statement” means an oral, written, sign language, or nonverbal communication.

~~(b)(1) A custodial interrogation that occurs in a place of detention concerning the investigation of a felony or misdemeanor violation of this title shall be electronically recorded in its entirety. Unless impracticable, a custodial interrogation occurring outside a place of detention concerning the investigation of a felony or misdemeanor violation of this title shall be electronically recorded in its entirety.~~

~~(2) In consideration of best practices, law enforcement shall strive to record simultaneously both the interrogator and the person being interrogated.~~

~~(e)(1) The following are exceptions to the recording requirement in subsection (b) of this section:~~

~~(A) exigent circumstances;~~

~~(B) a person’s refusal to be electronically recorded;~~

~~(C) interrogations conducted by other jurisdictions;~~

~~(D) a reasonable belief that the person being interrogated did not commit a felony or misdemeanor violation of this title and, therefore, an electronic recording of the interrogation was not required;~~

~~(E) the safety of a person or protection of the person’s identity; and~~

~~(F) equipment malfunction.~~

~~(2) If law enforcement does not make an electronic recording of a custodial interrogation as required by this section, the prosecution shall prove by a preponderance of the evidence that one of the exceptions identified in subdivision (1) of this subsection applies. If the prosecution does not meet the burden of proof, the evidence is still admissible, but the court shall provide cautionary instructions to the jury regarding the failure to record the interrogation.~~

Sec. 2. 13 V.S.A. § 5586 is added to read:

§ 5586. ELECTRONIC RECORDING OF A CUSTODIAL INTERROGATION

(a)(1) A custodial interrogation that occurs in a place of detention concerning the investigation of a felony or misdemeanor violation of this title shall be electronically recorded in its entirety. Unless impracticable, a custodial interrogation occurring outside a place of detention concerning the investigation of a felony or misdemeanor violation of this title shall be electronically recorded in its entirety.

(2) In consideration of best practices, law enforcement shall strive to record simultaneously both the interrogator and the person being interrogated.

(b)(1) The following are exceptions to the recording requirement in subsection (a) of this section:

(A) exigent circumstances;

(B) a person's refusal to be electronically recorded;

(C) interrogations conducted by other jurisdictions;

(D) a reasonable belief that the person being interrogated did not commit a felony or misdemeanor violation of this title and, therefore, an electronic recording of the interrogation was not required;

(E) the safety of a person or protection of the person's identity; and

(F) equipment malfunction.

(2) If law enforcement does not make an electronic recording of a custodial interrogation as required by this section, the prosecution shall prove by a preponderance of the evidence that one of the exceptions identified in subdivision (1) of this subsection applies. If the prosecution does not meet the burden of proof, the evidence is still admissible, but the court shall provide cautionary instructions to the jury regarding the failure to record the interrogation.

Sec. 3. 13 V.S.A. § 5587 is added to read:

§ 5587. JUVENILES

(a) During a custodial interrogation of a person under 22 years of age relating to the commission of a criminal offense or delinquent act, a law enforcement officer or government agent shall not employ threats, physical harm, or deception.

(b)(1) Any admission, confession, or statement, whether written or oral, made by a person under 22 years of age and obtained in violation of subsection

(a) of this section shall be presumed to be involuntary and inadmissible in any proceeding.

(2) The presumption that any such admission, confession, or statement is involuntary and inadmissible may be overcome if the State proves by clear and convincing evidence that the admission, confession, or statement was:

(A) voluntary and not induced by a law enforcement officer's or government agent's use of threats, physical harm, or deception prohibited by subsection (a) of this section; and

(B) any actions of a law enforcement officer or government agent in violation of subsection (a) of this section did not undermine the reliability of the person's admission, confession, or statement and did not create a substantial risk that the person might falsely incriminate themselves.

Sec. 4. VERMONT CRIMINAL JUSTICE COUNCIL; MODEL INTERROGATION POLICY

(a) On or before October 1, 2023, the Vermont Criminal Justice Council, in consultation with the Office of the Attorney General, shall collaborate and create a model interrogation policy that applies to all persons subject to various forms of interrogation, including the following:

(1) custodial interrogations occurring in a place of detention;

(2) custodial interrogations occurring outside a place of detention;

(3) interrogations that are not considered custodial, regardless of location; and

(4) the interrogation of individuals with developmental, intellectual, and psychiatric disabilities; substance use disorder; and low literacy levels.

(b) On or before January 1, 2024, the Vermont Criminal Justice Council, in consultation with stakeholders, including the Agency of Human Services, the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and the Innocence Project, shall update its model interrogation policy to establish one cohesive model policy for law enforcement agencies and constables to adopt, follow, and enforce as part of the agency's or constable's own interrogation policy.

Sec. 5. 20 V.S.A. § 2359 is amended to read:

§ 2359. COUNCIL SERVICES CONTINGENT ON AGENCY COMPLIANCE; GRANT ELIGIBILITY

(a) On and after January 1, 2022, a law enforcement agency shall be prohibited from having its law enforcement applicants or officers trained by

the Police Academy or from otherwise using the services of the Council if the agency is not in compliance with the requirements for collecting roadside stop data under section 2366 of this chapter, the requirement to report to the Office of Attorney General death or serious bodily injuries under 18 V.S.A. § 7257a(b), or the requirement to adopt, follow, or enforce any policy required under this chapter.

(b) On and after April 1, 2024, a law enforcement agency shall be prohibited from receiving grants, or other forms of financial assistance, if the agency is not in compliance with the requirement to adopt, follow, or enforce the model interrogation policy established by the Council pursuant to section 2371 of this title.

(c) The Council shall adopt procedures to enforce the requirements of this section, which may allow for waivers for agencies under a plan to obtain compliance with this section.

Sec. 6. 20 V.S.A. § 2371 is added to read:

§ 2371. STATEWIDE POLICY; INTERROGATION METHODS

(a) As used in this section:

(1) “Custodial interrogation” has the same meaning as in 13 V.S.A. § 5585.

(2) “Place of detention” has the same meaning as in 13 V.S.A. § 5585.

(b) The Council shall establish a model interrogation policy that applies to all persons subject to various forms of interrogation, including the following:

(1) custodial interrogations occurring in a place of detention;

(2) custodial interrogations occurring outside a place of detention;

(3) interrogations that are not considered custodial, regardless of location; and

(4) the interrogation of individuals with developmental, intellectual, and psychiatric disabilities; substance use disorder; and low literacy levels.

(c)(1) On or before April 1, 2024, each law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall adopt, follow, and enforce an interrogation policy that includes each component of the model interrogation policy established by the Council, and each law enforcement officer or constable who exercises law enforcement authority shall comply with the provisions of agency’s or constable’s policy.

(2) On or before October 1, 2024, and every even-numbered year thereafter, the Vermont Criminal Justice Council, in consultation with others, including the Office of the Attorney General, the Agency of Human Services, and the Human Rights Commission, shall review and, if necessary, update the model interrogation policy.

(d) To encourage fair and consistent interrogation methods statewide, the Vermont Criminal Justice Council, in consultation with the Office of the Attorney General, shall review the policies of law enforcement agencies and constables required to adopt a policy pursuant to subsection (c) of this section, to ensure that those policies establish each component of the model policy on or before April 15, 2024. If the Council finds that a policy does not meet each component of the model policy, it shall work with the law enforcement agency or constable to bring the policy into compliance. If, after consultation with its attorney or with the Council, or with both, the law enforcement agency or constable fails to adopt a policy that meets each component of the model policy, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy established by the Council.

(e) The Council shall incorporate the provisions of this section into the training it provides.

(f) Annually, as part of their annual training report to the Council, every law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall report to the Council whether the agency or constable has adopted an interrogation policy in accordance with subsections (c) and (d) of this section. The Vermont Criminal Justice Council shall determine, as part of the Council's annual certification of training requirements, whether current officers have received training on interrogation methods as required by subsection (e) of this section.

(g) Annually, on or before July 1, the Vermont Criminal Justice Council shall report to the House and Senate Committees on Judiciary regarding which law enforcement agencies and officers have received training on interrogation methods.

#### Sec. 7. APPROPRIATION

The sum of \$150,000.00 is appropriated from the General Fund to the Vermont Criminal Justice Council in fiscal year 2024 for the purpose of creating a Director of Policy position.

#### Sec. 8. EFFECTIVE DATES



This act shall take effect on July 1, 2023, except that Secs. 5 (council services contingent on agency compliance; grant eligibility) and 6 (statewide policy; interrogation methods) shall take effect on April 1, 2024.

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

An act relating to law enforcement interrogation policies.

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

By striking out Sec. 7, appropriation, in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. [Deleted.]

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of the Committee on Judiciary was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Judiciary, as amended? was agreed to and third reading of the bill was ordered.

### **Bills Passed**

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

**S. 37.** An act relating to access to legally protected health care activity and regulation of health care providers.

**S. 48.** An act relating to regulating the sale of catalytic converters.

**S. 94.** An act relating to the City of Barre tax increment financing district.

### **Third Reading Ordered**

#### **J.R.S. 19.**

Joint Senate resolution entitled:

Joint resolution relating to State lands transactions in Jamaica State Park and Coolidge State Forest.

Having appeared on the Calendar for notice for one day, was taken up.

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

### **Third Reading Ordered**

#### **S. 93.**

Senator McCormack, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to the sales tax exemption for advanced wood boilers.

Reported that the bill ought to pass.

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

### **Bills Amended; Third Readings Ordered**

#### **S. 65.**

Senator Cummings, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to commercial insurance coverage of epinephrine auto-injectors.

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

Sec. 1. 8 V.S.A. chapter 107, subchapter 15 is added to read:

#### Subchapter 15. Epinephrine

#### § 4100m. EPINEPHRINE AUTO-INJECTORS; COVERAGE REQUIRED

(a) As used in this section, “health insurance plan” means any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this State by a health insurer. The term shall not include benefit plans providing coverage for a specific disease or other limited benefit coverage. “Health insurer” means any insurance company that provides health insurance as defined in subdivision 3301(a)(2) of this title, nonprofit hospital and medical service corporations, and health maintenance organizations.

(b) Except to the extent such coverage would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to 26 U.S.C. § 223, a health insurance plan shall provide coverage without any deductible, coinsurance, co-payment, or other cost-sharing requirement for epinephrine auto-injectors when prescribed by an insured’s health care provider.

**Sec. 2. EFFECTIVE DATE**

This act shall take effect on January 1, 2025 and shall apply to all health insurance plans issued on and after January 1, 2025 on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event later than January 1, 2026.

And that when so amended the bill ought to pass.

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

**S. 104.**

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

An act relating to designating August 31 as Overdose Awareness Day.

Reported recommending that the bill be amended by adding a new Sec. 4 to read as follows:

**Sec. 4. PROSPECTIVE REPEAL**

1 V.S.A. § 378 (Overdose Awareness Day) and 1 V.S.A. § 496f (flag protocol; Overdose Awareness Day) are repealed effective September 1, 2033.

And by renumbering the remaining section to be numerically correct.

And that when so amended the bill ought to pass.

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

**Message from the House No. 30**

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

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 175.** An act relating to modernizing the Children and Family Council for Prevention Programs.

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

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 48.** House concurrent resolution commemorating the 25th anniversary of the Good Friday Agreement on the observance of St Patrick's Day 2023.

**H.C.R. 49.** House concurrent resolution congratulating Westford Elementary School's robotics teams for their award-winning performances at the FIRST LEGO League State Championship.

**H.C.R. 50.** House concurrent resolution congratulating the Governor's Institutes of Vermont on their 40th anniversary.

**H.C.R. 51.** House concurrent resolution commemorating the 25th anniversary of the establishment of the Vermont Downtown Program and designating March 22, 2023 as Downtown Day at the State House.

**H.C.R. 52.** House concurrent resolution designating March 22, 2023 as Vermont Tourism Day at the State House.

**H.C.R. 53.** House concurrent resolution recognizing the week of May 14–20 as National Skilled Nursing Care Week and the week of September 10–16 as National Assisted Living Week in Vermont.

**H.C.R. 54.** House concurrent resolution honoring Bruce Sklar, Harwood Union Middle and High School jazz teacher extraordinaire.

**H.C.R. 55.** House concurrent resolution honoring Chris Rivers on his transformative career as Harwood Union Middle and High School Music Department Chair.

**H.C.R. 56.** House concurrent resolution recognizing March 12–18 as AmeriCorps Week in Vermont.

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

### **House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Rep. Casey,

#### **H.C.R. 48.**

House concurrent resolution commemorating the 25th anniversary of the Good Friday Agreement on the observance of St Patrick's Day 2023.

By Rep. Andrews,

**H.C.R. 49.**

House concurrent resolution congratulating Westford Elementary School's robotics teams for their award-winning performances at the FIRST LEGO League State Championship.

By Reps. Bos-Lun and others,

**H.C.R. 50.**

House concurrent resolution congratulating the Governor's Institutes of Vermont on their 40th anniversary.

By Reps. Wood and others,

**H.C.R. 51.**

House concurrent resolution commemorating the 25th anniversary of the establishment of the Vermont Downtown Program and designating March 22, 2023 as Downtown Day at the State House.

By Reps. Jerome and Marcotte,

By Senator Ram Hinsdale,

**H.C.R. 52.**

House concurrent resolution designating March 22, 2023 as Vermont Tourism Day at the State House.

By Rep. Wood,

By Senators Lyons, Gulick, Hardy, Weeks and Williams,

**H.C.R. 53.**

House concurrent resolution recognizing the week of May 14–20 as National Skilled Nursing Care Week and the week of September 10–16 as National Assisted Living Week in Vermont.

By Reps. Dolan and others,

**H.C.R. 54.**

House concurrent resolution honoring Bruce Sklar, Harwood Union Middle and High School jazz teacher extraordinaire.

By Reps. Dolan and others,

**H.C.R. 55.**

House concurrent resolution honoring Chris Rivers on his transformative career as Harwood Union Middle and High School Music Department Chair.

By Rep. Noyes,

**H.C.R. 56.**

House concurrent resolution recognizing March 12–18 as AmeriCorps Week in Vermont.

**Adjournment**

On motion of Senator Baruth, the Senate adjourned, to reconvene on Tuesday, March 21, 2023, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 18.