

Journal of the House

Tuesday, February 18, 2025

At ten o'clock in the forenoon, the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Phil Pouech of Hinesburg.

Pledge of Allegiance

Pages Cecilia Huling of Thetford and Mary Rogerson of Cabot led the House in the Pledge of Allegiance.

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 on its part adopted joint resolution of the following title:

J.R.S. 14. Joint resolution relating to weekend adjournment on February 21, 2025.

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

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. 227

By Reps. Bos-Lun of Westminster, Austin of Colchester, Bishop of Colchester, Burt of Cabot, Campbell of St. Johnsbury, Carris-Duncan of Whitingham, Chapin of East Montpelier, Christie of Hartford, Cina of Burlington, Coffin of Cavendish, Cordes of Bristol, Dodge of Essex, Donahue of Northfield, Eastes of Guilford, Headrick of Burlington, Hooper of Burlington, Kleppner of Burlington, Lipsky of Stowe, Logan of Burlington, McCann of Montpelier, McGill of Bridport, Morrow of Weston, Mrowicki of Putney, Olson of Starksboro, Pezzo of Colchester, Pouech of Hinesburg, and Surprenant of Barnard,

House bill, entitled

An act relating to establishing a residential peer respite facility in southern Vermont

To the Committee on Human Services.

H. 228

By Reps. Cole of Hartford and Cordes of Bristol,

House bill, entitled

An act relating to hospital employee compensation and administrative staffing ratios

To the Committee on Health Care.

H. 229

By Reps. Burke of Brattleboro, Boyden of Cambridge, Bos-Lun of Westminster, Burtt of Cabot, Nelson of Derby, O'Brien of Tunbridge, and Surprenant of Barnard,

House bill, entitled

An act relating to establishing the Farm and Forestry Operations Security Special Fund to provide grants for losses to farms and forestry operations due to weather conditions

To the Committee on Agriculture, Food Resiliency, and Forestry.

H. 230

By Rep. Satcowitz of Randolph,

House bill, entitled

An act relating to the management of fish and wildlife

To the Committee on Environment.

H. 231

By Rep. Satcowitz of Randolph,

House bill, entitled

An act relating to technical corrections to fish and wildlife statutes

To the Committee on Environment.

H. 232

By Rep. Waszazak of Barre City,

House bill, entitled

An act relating to creating the Vermont Municipal Response and Recovery Special Fund

To the Committee on Government Operations and Military Affairs.

H. 233

By Reps. Nugent of South Burlington, Brown of Richmond, Carris-Duncan of Whitingham, Cina of Burlington, Cole of Hartford, Hooper of Burlington, Krasnow of South Burlington, Lalley of Shelburne, Logan of Burlington, McGill of Bridport, Minier of South Burlington, Mrowicki of Putney, Olson of Starksboro, Pouech of Hinesburg, Priestley of Bradford, Rachelson of Burlington, Torre of Moretown, and Waszazak of Barre City,

House bill, entitled

An act relating to requirements for State-funded grants

To the Committee on Government Operations and Military Affairs.

H. 234

By Rep. Casey of Montpelier,

House bill, entitled

An act relating to determining the appropriateness of a collective bargaining unit for adjunct faculty

To the Committee on General and Housing.

H. 235

By Rep. Casey of Montpelier,

House bill, entitled

An act relating to unemployment insurance eligibility and benefits

To the Committee on Commerce and Economic Development.

H. 236

By Reps. Noyes of Wolcott, Bailey of Hyde Park, Boyden of Cambridge, LaMont of Morristown, and Yacovone of Morristown,

House bill, entitled

An act relating to authorizing the use of State waters by hydroelectric generation facilities

To the Committee on Environment.

H. 237

By Reps. McFaun of Barre Town, Cina of Burlington, Cordes of Bristol, Demar of Enosburgh, Galfetti of Barre Town, Goldman of Rockingham, and Page of Newport City,

House bill, entitled

An act relating to prescribing by doctoral-level psychologists

To the Committee on Health Care.

H. 238

By Reps. Sheldon of Middlebury and Chapin of East Montpelier,

House bill, entitled

An act relating to the phaseout of consumer products containing added perfluoroalkyl and polyfluoroalkyl substances

To the Committee on Environment.

H. 239

By Reps. McCann of Montpelier, Casey of Montpelier, Cordes of Bristol, Hooper of Burlington, Logan of Burlington, McGill of Bridport, Pouech of Hinesburg, and Priestley of Bradford,

House bill, entitled

An act relating to temporary State employees

To the Committee on Government Operations and Military Affairs.

H. 240

By Reps. Noyes of Wolcott, Bailey of Hyde Park, Boyden of Cambridge, LaMont of Morristown, and Yacovone of Morristown,

House bill, entitled

An act relating to authorizing drawdown of dams during emergency flood events

To the Committee on Government Operations and Military Affairs.

H. 241

By Reps. Birong of Vergennes, Bartley of Fairfax, Bluemle of Burlington, Bosch of Clarendon, Branagan of Georgia, Burditt of West Rutland, Burkhardt of South Burlington, Canfield of Fair Haven, Cole of Hartford, Critchlow of Colchester, Feltus of Lyndon, Galfetti of Barre Town, Greer of Bennington, Gregoire of Fairfield, Harrison of Chittenden, Harvey of Castleton, Higley of Lowell, Hooper of Randolph, Howland of Rutland Town, Kascenska of Burke, Kleppner of Burlington, Labor of Morgan, Laroche of Franklin, Lipsky of Stowe, Luneau of St. Albans City, Maguire of Rutland City, Malay of Pittsford, Marcotte of Coventry, Morgan, L. of Milton, Morgan, M. of Milton, Morris of Springfield, Morrissey of Bennington, Mrowicki of Putney, Nelson of Derby, Noyes of Wolcott, Oliver of Sheldon, Olson of Starksboro, Page of Newport City, Pritchard of Pawlet, Quimby of Lyndon, Sibilia of Dover, Surprenant of Barnard, Sweeney of Shelburne, Toof of St. Albans Town, Wells of Brownington, White of Bethel, and Winter of Ludlow,

House bill, entitled

An act relating to amendments to the scope of practice for optometrists

To the Committee on Government Operations and Military Affairs.

H. 242

By Reps. Satcowitz of Randolph, Sheldon of Middlebury, and Logan of Burlington,

House bill, entitled

An act relating to regulating short-term rentals

To the Committee on General and Housing.

H. 243

By Reps. Marcotte of Coventry, Graning of Jericho, and White of Bethel,

House bill, entitled

An act relating to the regulation of business organizations

To the Committee on Commerce and Economic Development.

H. 244

By Reps. Rachelson of Burlington and Waters Evans of Charlotte,

House bill, entitled

An act relating to State contracting standards for advertising

To the Committee on Government Operations and Military Affairs.

H. 245

By Reps. Olson of Starksboro, Donahue of Northfield, Harrison of Chittenden, Kleppner of Burlington, Logan of Burlington, Masland of Thetford, and McCann of Montpelier,

House bill, entitled

An act relating to hospital and health network budgets

To the Committee on Health Care.

H. 246

By Reps. McGill of Bridport, Bos-Lun of Westminster, Burrows of West Windsor, Chapin of East Montpelier, Cole of Hartford, Cordes of Bristol, Eastes of Guilford, Logan of Burlington, Olson of Starksboro, and Tomlinson of Winooski,

House bill, entitled

An act relating to supports to help students experiencing homelessness and students exiting the foster care system succeed in postsecondary educational institutions

To the Committee on Education.

H. 247

By Reps. Micklus of Milton, Bosch of Clarendon, Boutin of Barre City, Carris-Duncan of Whitingham, Dickinson of St. Albans Town, Hango of Berkshire, Morgan, L. of Milton, Morgan, M. of Milton, Nielsen of Brandon, Steady of Milton, and Taylor of Milton,

House bill, entitled

An act relating to cardiac emergency response plans in schools

To the Committee on Education.

H. 248

By Reps. Gregoire of Fairfield and Noyes of Wolcott,

House bill, entitled

An act relating to supplemental child care grants and the Child Care Financial Assistance Program

To the Committee on Human Services.

H. 249

By Reps. Taylor of Milton, Bartley of Fairfax, Burditt of West Rutland, Coffin of Cavendish, Dobrovich of Williamstown, Galfetti of Barre Town, Hango of Berkshire, Higley of Lowell, Laroche of Franklin, Luneau of St. Albans City, Micklus of Milton, Morgan, L. of Milton, Morgan, M. of Milton, Morrissey of Bennington, Page of Newport City, Pinsonault of Dorset, Powers of Waterford, Priestley of Bradford, Pritchard of Pawlet, Tagliavia of Corinth, and Toof of St. Albans Town,

House bill, entitled

An act relating to an income tax deduction for home study programs

To the Committee on Ways and Means.

H. 250

By Reps. Morris of Springfield, Austin of Colchester, Bartholomew of Hartland, Bos-Lun of Westminster, Casey of Montpelier, Logan of Burlington, Pritchard of Pawlet, Satcowitz of Randolph, Sheldon of Middlebury, and Waszazak of Barre City,

House bill, entitled

An act relating to perfluoroalkyl and polyfluoroalkyl substances in firefighting personal protective equipment and station wear

To the Committee on Human Services.

H. 251

By Rep. LaLonde of South Burlington,

House bill, entitled

An act relating to establishing a competency restoration process

To the Committee on Judiciary.

H. 252

By Reps. Pritchard of Pawlet, Bosch of Clarendon, Boutin of Barre City, Branagan of Georgia, Burditt of West Rutland, Burt of Cabot, Canfield of Fair Haven, Casey of Hubbardton, Charlton of Chester, Coffin of Cavendish, Demar of Enosburgh, Dolgin of St. Johnsbury, Galfetti of Barre Town, Goslant of Northfield, Greer of Bennington, Gregoire of Fairfield, Harrison of Chittenden, Harvey of Castleton, Higley of Lowell, Howland of Rutland Town, Kascenska of Burke, Keyser of Rutland City, Labor of Morgan, Laroche of Franklin, Lipsky of Stowe, Luneau of St. Albans City, Maguire of Rutland City, Malay of Pittsford, McFaun of Barre Town, Morgan, L. of Milton,

Morgan, M. of Milton, Morris of Springfield, Morrissey of Bennington, Morrow of Weston, Nielsen of Brandon, North of Ferrisburgh, Oliver of Sheldon, Page of Newport City, Parsons of Newbury, Pinsonault of Dorset, Powers of Waterford, Southworth of Walden, Sweeney of Shelburne, Tagliavia of Corinth, Walker of Swanton, Wells of Brownington, and Winter of Ludlow,

House bill, entitled

An act relating to prohibiting earned time for second or subsequent felony convictions

To the Committee on Corrections and Institutions.

H. 253

By Reps. Holcombe of Norwich and Lalley of Shelburne,

House bill, entitled

An act relating to workforce housing zones

To the Committee on General and Housing.

H. 254

By Reps. Luneau of St. Albans City, Bartley of Fairfax, Boutin of Barre City, Galfetti of Barre Town, Gregoire of Fairfield, Hango of Berkshire, Higley of Lowell, Laroche of Franklin, Malay of Pittsford, Morgan, M. of Milton, Morrissey of Bennington, Oliver of Sheldon, Taylor of Milton, Toof of St. Albans Town, Walker of Swanton, and Winter of Ludlow,

House bill, entitled

An act relating to orders permitting alternate service of process in civil proceedings

To the Committee on Judiciary.

H. 255

By Reps. Krasnow of South Burlington, Arsenault of Williston, Austin of Colchester, Burkhardt of South Burlington, Duke of Burlington, Hooper of Burlington, Kleppner of Burlington, Labor of Morgan, Lalley of Shelburne, Logan of Burlington, Minier of South Burlington, Pouech of Hinesburg, Sweeney of Shelburne, and Wells of Brownington,

House bill, entitled

An act relating to establishing increased criminal penalties for an assault of a public transit worker

To the Committee on Judiciary.

H. 256

By Rep. Krasnow of South Burlington,

House bill, entitled

An act relating to Judiciary Employees Labor Relations Act

To the Committee on General and Housing.

Ceremonial Reading**H.C.R. 11**

Offered by Representatives Morrissey of Bennington, Cooper of Pownal, Corcoran of Bennington, Durfee of Shaftsbury, Greer of Bennington, Hunter of Manchester, James of Manchester, Nigro of Bennington, and Pinsonault of Dorset

Offered by Senators Bongartz and Plunkett

House concurrent resolution in memory of extraordinary Bennington K-9 Police Officer Gracie

Whereas, K-9 police officers serve a unique and essential law enforcement role, and this fact has been especially reflected in the operations of the Bennington Police Department, where K-9 Gracie was a star of much renown, serving in a program that Bennington Police Chief Paul J. Doucette Jr. and Lt. Camillo A. Grande established, and

Whereas, the achievements of this dedicated police officer were undeniably impressive as enumerated in her over 500 deployments and location of more than 70 persons, and she mightily contributed to the recovery of drugs and currency valued in excess of \$1.6 million, and

Whereas, her service on behalf of the Bennington citizenry was widely respected, and this stalwart police officer was a welcomed visitor at local schools and was present at many community events, and

Whereas, her sudden death on Thanksgiving Day, November 28, 2024, shocked and saddened Benningtonians, and

Whereas, her memorial service, with more than 500 persons in attendance, served as a dignified and emotional farewell featuring the participation of many fans and admirers; a choral musical performance; the presentation of a tribute American flag to Gracie's human caretaker, Officer Robert Murawski; and concluded with a much-befitting 21-gun salute, and

Whereas, a new K-9 training yard, to be constructed in Bennington, will be dedicated in K-9 Gracie's honor, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly extends its condolences to the Bennington Police Department and the many admirers of K-9 Gracie on the death of this outstanding police officer, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Bennington Police Department, Police Chief Paul J. Doucette Jr., Lt. Camillo A. Grande, and Officer Robert Murawski.

Having been adopted in concurrence on Friday, January 31, 2025 in accord with Joint Rule 16b, was read.

Action on Bill Postponed**H. 98**

House bill, entitled

An act relating to confirmatory adoptions

Was taken up and, pending second reading, on motion of **Rep. LaLonde of South Burlington**, action on the bill was postponed until February 19, 2025.

Second Reading; Bill Amended; Third Reading Ordered**H. 13**

Rep. Noyes of Wolcott, for the Committee on Human Services, to which had been referred House bill, entitled

An act relating to Medicaid payment rates for home- and community-based service providers and designated and specialized service agencies

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. 33 V.S.A. § 900 is amended to read:

§ 900. DEFINITIONS

~~Unless otherwise required by the context, the words and phrases in this chapter shall be defined as follows~~ As used in this chapter:

* * *

(7) “Home- and community-based services” means the following services provided pursuant to Vermont’s Global Commitment to Health Section 1115 Medicaid demonstration or a successor program:

(A) long-term services and supports provided to older adults and adults with disabilities in a home or community setting other than a nursing home, including enhanced residential care services;

(B) home health and hospice services, adult day rehabilitation services, and assistive community care services; and

(C) short- and long-term services and supports provided to individuals with mental conditions, individuals with substance use disorders, individuals with developmental or intellectual disabilities, and individuals with a brain injury, in a home or community setting for which the Medicaid rates are not otherwise established pursuant to statute or rule.

Sec. 2. 33 V.S.A. § 911 is added to read:

§ 911. PAYMENT RATES FOR PROVIDERS OF HOME- AND

COMMUNITY-BASED SERVICES

(a) The Secretary of Human Services shall determine payment rates for providers of home- and community-based services that are reasonable and adequate to achieve the required outcomes for the populations they serve. When determining these payment rates, the Secretary shall adjust the rate amounts to take into account factors that include:

(1) the reasonable cost of any governmental mandate that has been enacted, adopted, or imposed by any State or federal authority; and

(2) a cost adjustment factor to reflect changes in reasonable costs of goods to and services of providers of home- and community-based services, including those attributed to inflation and labor market dynamics.

(b) When determining reasonable and adequate rates of payment for providers of home- and community-based services, the Secretary may consider geographic differences in wages, benefits, housing, and real estate costs in each region of the State.

(c) The Secretary shall establish a methodology for determining payment rates for providers of home- and community-based services in accordance with this section. The methodology shall:

(1) provide a schedule for conducting studies of the Medicaid reimbursement rates paid to the providers of home- and community-based services, including the rates' adequacy and their underlying methodologies, that includes studying the rates paid to providers for each type of service at least once every five years;

(2) set forth a predictable timeline for redetermination of base rates;

(3) include a process for determining an annual inflationary rate adjustment;

(4) to the extent permitted by the Centers for Medicare and Medicaid Services, take into account the financial needs of providers whose reimbursements may be negatively affected by client absences; and

(5) use Vermont labor market rates and Vermont costs of operation.

(d) The Secretary shall establish a process by which a provider whose financial condition places it at imminent risk of closure may seek extraordinary financial relief from the Agency.

(e) The Secretary shall redetermine the payment rates for providers of home- and community-based services in accordance with this section at least annually and shall report those rates, and the amounts necessary to fund them, to the House Committees on Appropriations, on Human Services, and on Health Care and the Senate Committees on Appropriations and on Health and Welfare annually as part of the Agency's budget presentation.

Sec. 3. 18 V.S.A. § 8914 is amended to read:

§ 8914. RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED
SERVICE AGENCIES

~~(a) The Secretary of Human Services shall have sole responsibility for establishing~~ determine the Departments of Health's, of Mental Health's, and of Disabilities, Aging, and Independent Living's rates of payments for designated and specialized service agencies ~~that are reasonable and adequate to achieve the required outcomes for designated populations in accordance with 33 V.S.A. § 911.~~ When establishing rates of payment for designated and specialized service agencies, the Secretary shall adjust rates to take into account factors that include:

~~(1) the reasonable cost of any governmental mandate that has been enacted, adopted, or imposed by any State or federal authority; and~~

~~(2) a cost adjustment factor to reflect changes in reasonable costs of goods and services of designated and specialized service agencies, including those attributed to inflation and labor market dynamics.~~

~~(b) When establishing rates of payment for designated and specialized service agencies, the Secretary may consider geographic differences in wages, benefits, housing, and real estate costs in each region of the State.~~

Sec. 4. PAYMENT RATES FOR PROVIDERS OF HOME- AND
COMMUNITY-BASED SERVICES; UPDATE ON
IMPLEMENTATION; REPORT

On or before January 15, 2026, the Agency of Human Services shall report to the House Committees on Human Services and on Health Care and the Senate Committee on Health and Welfare with an update on the Agency's implementation of 33 V.S.A. § 911, as added by Sec. 2 of this act, including the Agency's proposed schedule for Medicaid rate studies and the methodology the Agency developed for determining payment rates for providers of home- and community-based services.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to Medicaid payment rates for home- and community-based service providers"

Rep. Yacovone of Morristown, for the Committee on Appropriations, recommended the bill ought to pass when amended as recommended by the Committee on Human Services.

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

Second Reading; Bill Amended; Third Reading Ordered

H. 44

Rep. Goodnow of Brattleboro, for the Committee on Judiciary, to which had been referred House bill, entitled

An act relating to miscellaneous amendments to the laws governing impaired driving

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. 4 V.S.A. § 33 is amended to read:

§ 33. JURISDICTION; FAMILY DIVISION

(a) Notwithstanding any other provision of law to the contrary, the Family Division shall have exclusive jurisdiction to hear and dispose of the following proceedings filed or pending on or after October 1, 1990:

* * *

(8) All juvenile proceedings filed pursuant to 33 V.S.A. chapters 51, 52, 52A, and 53, including proceedings involving "youthful offenders" pursuant to 33 V.S.A. § 5281 whether the matter originated in the Criminal or Family Division of the Superior Court, except for a proceeding charging the holder of a commercial driver's license as defined in 23 V.S.A. § 4103 with an offense

or violation listed in 23 V.S.A. § 4116 that would result in the license holder being disqualified from driving a commercial motor vehicle if convicted.

* * *

(b) The Family Division of the Superior Court has jurisdiction to hear and dispose of proceedings involving ~~misdemeanor~~ motor vehicle offenses filed ~~or pending on or after July 1, 2016,~~ pursuant to 33 V.S.A. §§ 5201, 5203, and 5280, and 5281. The Family Division of the Superior Court shall forward a record of any conviction or adjudication for violation of a law related to motor vehicle traffic control, other than a parking violation, to the Commissioner of Motor Vehicles pursuant to 23 V.S.A. § 1709. As used in this subsection, “conviction” has the same meaning as in 23 V.S.A. § 4(60).

Sec. 2. 23 V.S.A. chapter 13, subchapter 13 is amended to read:

Subchapter 13. Drunken Driving

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(11) “Serious bodily injury” has the same meaning as in 13 V.S.A. § 1021(a)(2)(A).

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF

ALCOHOL OR OTHER SUBSTANCE; CRIMINAL REFUSAL;

ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person’s alcohol concentration is:

(A) 0.08 or more; or

(B) 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(C) 0.04 or more if the person is operating a commercial vehicle as defined in subdivision 4103(4) of this title; or

(2) when the person is under the influence of alcohol; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug.

(b) A person who has previously been convicted of a violation of this section shall not operate, attempt to operate, or be in actual physical control of

any vehicle on a highway and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer had reasonable grounds to believe the person was in violation of subsection (a) of this section.

(c) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and be involved in a crash or collision resulting in serious bodily injury or death to another and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer has reasonable grounds to believe the person has any amount of alcohol or drugs in ~~his or her~~ the person's system.

(d)(1) A person who is convicted of a second or subsequent violation of subsection (a), (b), or (c) of this section when the person's alcohol concentration is proven to be 0.16 or more shall not, for three years from the date of the conviction for which the person's alcohol concentration is 0.16 or more, operate, attempt to operate, or be in actual physical control of any vehicle on a highway when the person's alcohol concentration is 0.02 or more. The prohibition imposed by this subsection shall be in addition to any other penalties imposed by law.

(2) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway when the person's alcohol concentration is 0.02 or more if the person has previously been convicted of a second or subsequent violation of subsection (a), (b), or (c) of this section within the preceding three years and the person's alcohol concentration for the second or subsequent violation was proven to be 0.16 or greater. A violation of this subsection shall be considered a third or subsequent violation of this section and shall be subject to the penalties of subsection 1210(d) of this title.

(e) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this State shall not constitute a defense against any charge of violating this section.

(f) A person may not be convicted of more than one violation of subsection (a) or (j) of this section arising out of the same incident.

(g) For purposes of this section and section 1205 of this title, the defendant may assert as an affirmative defense that the person was not operating, attempting to operate, or in actual physical control of the vehicle because the person:

- (1) had no intention of placing the vehicle in motion; and
- (2) had not placed the vehicle in motion while under the influence.

(h) As used in subdivision (a)(3) of this section, “under the influence of a drug” means that a person’s ability to operate a motor vehicle safely is diminished or impaired in the slightest degree. This subsection shall not be construed to affect the meaning of the term “under the influence of alcohol.”

(i) Evidence of the results of a standardized field sobriety test conducted by a law enforcement officer trained in Advanced Roadside Impaired Driving Enforcement or a certified Drug Recognition Expert’s systematic evaluation of observable signs and symptoms of a person charged with a violation of this section shall be presumptively admissible at trial to demonstrate whether or not the person was operating under the influence in violation of this section.

(j) A person suspected of violating this section shall not refuse to submit to the collection of an evidentiary blood sample when a warrant for that person’s blood is issued pursuant to subdivision 1202(f)(1) of this title. This subsection shall not be construed as impairing a person’s right to challenge the validity of a search warrant in any subsequent legal proceedings.

* * *

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD

ALCOHOL CONTENT OR PRESENCE OF OTHER DRUG

(a)(1) Implied consent. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person’s breath for the purpose of determining the person’s alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2) Blood test. If breath testing equipment is not reasonably available or if the officer has reason to believe that the person is unable to give a sufficient sample of breath for testing or if the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of blood. If in the officer’s opinion the person is incapable of decision or unconscious or dead, it is deemed that the person’s consent is given and a sample of blood shall be taken. A blood test sought pursuant to this subdivision shall be obtained pursuant to subsection (f) of this section.

(3) Saliva test. If the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, or under the combined influence of alcohol and a drug, the person is deemed to have given consent to providing of an evidentiary sample of saliva. A saliva test sought pursuant to this subdivision shall be obtained pursuant to subsection (f) of this section. Any saliva test administered under this section shall be used only for the limited purpose of detecting the presence of a drug in the person's body and shall not be used to extract DNA information.

(4) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(5) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in ~~his or her~~ the person's system.

* * *

(d) At the time a test is requested, the person shall be informed of the following statutory information:

(1) Vermont law authorizes a law enforcement officer to request a test to determine whether the person is under the influence of alcohol or other drug.

(2) If the officer's request is reasonable and testing is refused, the person's license or privilege to operate will be suspended for at least six months.

(3) If a test is taken and the results indicate that the person is under the influence of alcohol or other drug, the person will be subject to criminal charges and the person's license or privilege to operate will be suspended for at least 90 days.

(4) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has the limited right to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and not later than 30 minutes from the time of the initial attempt to contact the attorney, regardless of whether a consultation took place. The person also has the right to have additional tests made by someone of the person's own choosing at the person's own expense. The person shall also be informed of the location of one or more facilities available for drawing blood.

(5) A person who is requested by a law enforcement officer to submit to an evidentiary test administered with an infrared breath-testing instrument may elect to have a second infrared test administered immediately after receiving the results of the first test.

(6) If the person refuses to take an evidentiary test, the refusal may be offered into evidence against the person at trial, whether or not a search warrant is sought. The person may be charged with the crime of criminal refusal if the person:

(A) has previously been convicted of a violation of section 1201 of this title; ~~or~~

(B) is involved in a crash or collision resulting in serious bodily injury or death to another, in which case the court may issue a search warrant and order the person to submit to a blood test, the results of which may be offered into evidence against the person at trial; or

(C) refuses the collection of an evidentiary blood sample when a warrant for that person's blood is issued pursuant to subdivision (f)(1) of this section.

(e) In any proceeding under this subchapter, a law enforcement officer's testimony that ~~he or she~~ the officer is certified pursuant to section 20 V.S.A. § 2358 shall be prima facie evidence of that fact.

(f)(1) If a blood test is sought from a person pursuant to subdivision (a)(2) of this section, or if a person who has been involved in a crash or collision resulting in serious bodily injury or death to another refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. Pursuant to subdivision (d)(6) of this section, if a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

(2) If an evidentiary saliva test is sought from a person pursuant to subdivision (a)(3) of this section, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of saliva for the evidentiary test. Pursuant to subdivision (d)(6) of this section, if a saliva sample is obtained by search

warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test.

(g) The Defender General shall provide statewide 24-hour coverage seven days a week to ensure that adequate legal services are available to persons entitled to consult an attorney under this section.

* * *

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

(a) Refusal; alcohol concentration at or above legal limits; suspension periods.

* * *

(2) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was at or above a limit specified in subsection 1201(a) of this title, at the time of operating, attempting to operate, or being in actual physical control, the Commissioner shall suspend the person's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the person complies with section 1209a of this title. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title.

* * *

(b) Form of officer's affidavit. A law enforcement officer's affidavit in support of a suspension under this section shall be in a standardized form for use throughout the State and shall be sufficient if it contains the following statements:

(1) The officer is a certified law enforcement officer.

(2) The officer who administered the test was certified to operate the testing equipment.

(3) The officer had reasonable grounds to believe the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title (noting the time and date of operating, attempting to operate, or being in actual physical control).

(4) The officer informed the person of ~~his or her~~ the person's rights under subsection 1202(d) of this title.

(5) The officer obtained an evidentiary test (noting the time and date the test was taken) and the test indicated that the person's alcohol concentration was at or above a legal limit specified in subsection 1201(a) or (d) of this title, or the person refused to submit to an evidentiary test.

(6) The officer complied with the Servicemembers Civil Relief Act, codified at 50 U.S.C. chapter 50.

(7) The officer confirmed the person's correct mailing address.

(c) Notice of suspension. On behalf of the Commissioner of Motor Vehicles, a law enforcement officer requesting or directing the administration of an evidentiary test shall serve notice of intention to suspend and of suspension on a person who refuses to submit to an evidentiary test or on a person who submits to a test the results of which indicate that the person's alcohol concentration was at or above a legal limit specified in subsection 1201(a) or (d) of this title, at the time of operating, attempting to operate, or being in actual physical control of a vehicle in violation of section 1201 of this title. The notice shall be signed by the law enforcement officer requesting the test. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, and a copy shall be mailed or given to the defendant within three business days after the date the officer receives the results of the test. If mailed, the notice is deemed received three days after mailing to the address provided by the defendant to the law enforcement officer. A copy of the affidavit of the law enforcement officer shall also be mailed by first-class mail or given to the defendant and the Commissioner of Motor Vehicles within seven days after the date of notice.

* * *

(f) Review by Superior Court. Within seven days following receipt of a notice of intention to suspend and of suspension, a person may make a request for a hearing before the Superior Court by mailing or delivering the form provided with the notice. The request shall be mailed or delivered to the Commissioner of Motor Vehicles, who shall then notify the Criminal Division of the Superior Court that a hearing has been requested and provide the Criminal Division and the State's Attorney with a copy of the notice of intention to suspend and of suspension and the officer's affidavit.

* * *

(h) Final hearing.

(1) If the defendant requests a hearing on the merits, the court shall schedule a final hearing on the merits to be held within 21 days after the date of the preliminary hearing. In no event may a final hearing occur more than 42 days after the date of the alleged offense without the consent of the

defendant or for good cause shown. The final hearing may only be continued by the consent of the defendant or for good cause shown. The issues at the final hearing shall be limited to the following:

(A) Whether the law enforcement officer had reasonable grounds to believe the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(B) Whether at the time of the request for the evidentiary test the officer informed the person of the person's rights and the consequences of taking and refusing the test substantially as set out in subsection 1202(d) of this title.

(C) Whether the person refused to permit the test.

(D) Whether the test was taken and the test results indicated that the person's alcohol concentration was at or above a legal limit specified in subsection 1201(a) or (d) of this title, at the time of operating, attempting to operate, or being in actual physical control of a vehicle in violation of section 1201 of this title, whether the testing methods used were valid and reliable, and whether the test results were accurate and accurately evaluated. Evidence that the test was taken and evaluated in compliance with rules adopted by the Department of Public Safety shall be *prima facie* evidence that the testing methods used were valid and reliable and that the test results are accurate and were accurately evaluated.

(E) Whether the requirements of section 1202 of this title were complied with.

(2) No less than seven days before the final hearing, and subject to the requirements of Vermont Rule of Civil Procedure 11, the defendant shall provide to the State and file with the court a list of the issues (limited to the issues set forth in this subsection) that the defendant intends to raise. Only evidence that is relevant to an issue listed by the defendant may be raised by the defendant at the final hearing. The defendant shall not be permitted to raise any other evidence at the final hearing, and all other evidence shall be inadmissible.

(i) Finding by the court. The court shall electronically forward a report of the hearing to the Commissioner. Upon a finding by the court that the law enforcement officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person refused to submit to a test, or upon a finding by the court that the law enforcement officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201

of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was at or above a legal limit specified in subsection 1201(a) or (d) of this title, at the time the person was operating, attempting to operate, or in actual physical control, the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle shall be suspended or shall remain suspended for the required term and until the person complies with section 1209a of this title. Upon a finding in favor of the person, the Commissioner shall cause the suspension to be canceled and removed from the record, without payment of any fee.

* * *

(n) Presumption. In a proceeding under this section, if at any time within two hours of operating, attempting to operate, or being in actual physical control of a vehicle a person had an alcohol concentration ~~of~~ at or above a legal limit specified in subsection 1201(a) or (d) of this title, it shall be a rebuttable presumption that the person's alcohol concentration was above the applicable limit at the time of operating, attempting to operate, or being in actual physical control.

* * *

§ 1210. PENALTIES

* * *

(f) Death resulting.

(1) If the death of any person results from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$10,000.00 or imprisoned not less than one year nor more than 15 years, or both. The provisions of this subsection do not limit or restrict prosecutions for manslaughter.

(2) If the death or serious bodily injury of more than one person results from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.

(3)(A) If the death of any person results from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of that section, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision (3)(A) shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough,

or any other type of early release until the expiration of the five-year term of imprisonment.

(B) Notwithstanding subdivision (A) of this subdivision (3), if the death or serious bodily injury of any person results from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of that section, the court may impose a sentence that does not include a term of imprisonment or that includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(g) Injury resulting.

(1) If serious bodily injury, ~~as defined in 13 V.S.A. § 1021(2)~~, results to any person other than the operator from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$5,000.00 or imprisoned not more than 15 years, or both.

(2) If serious bodily injury ~~as defined in 13 V.S.A. § 1021(2)~~ or death results to more than one person other than the operator from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each person injured or decedent.

(3)(A) If serious bodily injury ~~as defined in 13 V.S.A. § 1021(2)~~ results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of section 1201, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision (3)(A) shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year term of imprisonment.

(B) Notwithstanding subdivision (A) of this subdivision (3), if serious bodily injury ~~as defined in 13 V.S.A. § 1021(2)~~ results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of section 1201, the court may impose a sentence that does not include a term of imprisonment or that includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

* * *

Sec. 3. 33 V.S.A. § 5202 is amended to read:

§ 5202. ORDER OF ADJUDICATION; NONCRIMINAL

(a)(1) An order of the Family Division of the Superior Court in proceedings under this chapter shall not:

(A) be deemed a conviction of crime;

(B) impose any civil disabilities sanctions ordinarily resulting from a conviction; or

(C) operate to disqualify the child in any civil service application or appointment.

(2) Notwithstanding subdivision (1) of this subsection, ~~an order of delinquency in proceedings~~ a merits adjudication order issued pursuant to section 5229 of this title in proceedings concerning a child or youthful offender who is alleged to have committed a violation of those sections specified in 23 V.S.A. § 801(a)(1) shall be an event in addition to those specified therein, enabling the Commissioner of Motor Vehicles to require proof of financial responsibility under 23 V.S.A. chapter 11.

(3) Notwithstanding subdivision (1) of this subsection, a merits adjudication order issued pursuant to section 5229 of this title in proceedings concerning a child or youthful offender who is alleged to have committed a violation of 23 V.S.A. chapter 13, subchapter 13 shall be reported to the Commissioner of Motor Vehicles in accordance with the provisions of 23 V.S.A. § 1709.

* * *

Sec. 4. 33 V.S.A. § 5229 is amended to read:

§ 5229. MERITS ADJUDICATION

* * *

(g) If, based on the child's admission or the evidence presented, the court finds beyond a reasonable doubt that the child has committed a delinquent act, the court shall order the Department to prepare a disposition case plan not later than seven business days before the disposition hearing and shall send a record of the adjudication to the Commissioner of Motor Vehicles within 10 days following its issuance. In no event shall a disposition hearing be held later than 35 days after a finding that a child is delinquent.

* * *

Sec. 5. IMPAIRED DRIVING; IMPLIED CONSENT; PROCESSING; TASK FORCE; REPORT

(a) Creation. There is created the Impaired Driving Processing Task Force to study the concept of implied consent during impaired driving investigations with the objective to recommend approaches that minimize the duration for which impaired driving suspects are held during investigations and to streamline the processing and paperwork associated with such investigations.

(b) Membership. The Task Force shall be composed of the following members:

(1) the Chief Judge of the Superior Court or designee;

(2) the Defender General or designee;

(3) the Commissioner of Public Safety or designee;

(4) the Commissioner of Motor Vehicles or designee;

(5) the Executive Director of the Department of State's Attorneys and Sheriffs or designee; and

(6) a representative from the Vermont Police Association.

(c) Powers and duties. The Task Force shall study impaired driving investigations in Vermont, including the following issues:

(1) the constitutional and statutory requirements of implied consent;

(2) how constitutional and statutory requirements related to implied consent affect the duration for which suspected impaired drivers are held by law enforcement;

(3) methods to minimize statutory requirements related to implied consent that pass constitutional muster; and

(4) any other relevant issues in accordance with subsection (a) of this section.

(d) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Department of Public Safety.

(e) Report. On or before November 15, 2025, the Task Force shall submit a written report in the form of proposed legislation to the House and Senate Committees on Judiciary with any recommendations for legislative action.

(f) Meetings.

(1) The Commissioner of Public Safety or designee shall call the first meeting of the Task Force to occur on or before August 1, 2025.

(2) The Task Force shall select a chair from among its members at the first meeting.

(3) The Task Force shall meet not more than six times.

(4) A majority of the Task Force's membership shall constitute a quorum.

(5) The Task Force shall cease to exist on February 1, 2026.

(g) Compensation and reimbursement. Members of the Task Force who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than six meetings.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2025.

Rep. Squirrel of Underhill, for the Committee on Appropriations, recommended that the report of the Committee on Judiciary be amended in Sec. 5, impaired driving; implied consent; processing; task force; report, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Membership. The Task Force shall be composed of the following members:

(1) the Chief Judge of the Superior Court or designee;

(2) the Defender General or designee;

(3) the Commissioner of Public Safety or designee;

(4) the Commissioner of Motor Vehicles or designee;

(5) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;

(6) the President of the Vermont Sheriffs' Association or designee; and

(7) a representative from the Vermont Police Association.

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

**Vermont Citizens Advisory Committee on Lake Champlain's Future
Appointments**

Pursuant to 10 V.S.A. § 1960, the Speaker appointed the following members to the Vermont Citizens Advisory Committee on Lake Champlain's Future:

Rep. Ode of Burlington

Rep. Branagan of Georgia

Adjournment

At ten o'clock and forty-eight minutes in the forenoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at three o'clock in the afternoon.