

# Senate Calendar

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WEDNESDAY, JANUARY 31, 2018

SENATE CONVENES AT: 1:00 P.M.

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**ACTION CALENDAR**  
**UNFINISHED BUSINESS OF TUESDAY, JANUARY 30, 2018**

**Third Reading**

**S. 29.**

An act relating to decedents' estates.

**Amendment to S. 29 to be offered by Senators Benning and Flory before  
Third Reading**

Senators Benning and Flory move to amend the bill as follows:

First: In Sec. 3, 14 V.S.A. chapter 42, by striking out section 321 in its entirety and inserting in lieu thereof a new section 321 to read as follows:

§ 321. CONVEYANCE TO DEFEAT SPOUSE'S INTEREST

(a) A voluntary transfer of any property by an individual during a marriage or civil union and not to take effect until at or after the individual's death, made without adequate consideration and for the primary purpose of defeating a surviving spouse in a claim to a spouse's right to claim the survivor's intestate or elective share of the decedent's property so transferred, shall be void and inoperative to bar the claim. The, unless the surviving spouse waived the survivor's right to make a claim against the deceased spouse's estate or the property transferred pursuant to section 323 of this title. If the surviving spouse has not signed a waiver of spousal rights pursuant to section 323 of this title, then the decedent shall be deemed at the time of his or her death to be the owner and seised of an interest in such of the property sufficient for the purpose of assigning and setting out and the court may:

(1) increase the surviving spouse's share of the decedent's probate estate in an amount the court deems reasonable to account for the right the surviving spouse would otherwise have had in the property so transferred; or

(2) if the assets of the decedent's probate estate are insufficient to account for the right the surviving spouse would otherwise have had in the property, then order any other equitable relief the court deems appropriate.

(b) Neither this section nor any other provision of this title shall be construed to affect an enhanced life estate deed. As used in this subsection, "enhanced life estate deed," also known as a "Ladybird deed," shall mean a deed that conveys a future interest in real estate that is revocable or otherwise subject to limitation, with the transfer of the remaining title rights to take place when the grantor dies.

Second: By striking out Sec. 19 in its entirety and inserting in lieu thereof a new Sec. 19 to read as follows:

Sec. 19. EFFECTIVE DATE

This act shall take effect on July 1, 2018 and shall apply to wills executed or offered for admission on or after that date.

**NEW BUSINESS**

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 289.**

An act relating to the Vermont Broadband Internet Privacy Act.

**Reported favorably with recommendation of amendment by Senator Sirotkin for the Committee on Finance.**

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

Sec. 1. 3 V.S.A. § 348 is added to read:

§ 348. CONTRACTS FOR INTERNET SERVICE; NET NEUTRALITY COMPLIANCE

(a) The Secretary of Administration shall develop a process by which an Internet service provider may certify that it is in compliance with the consumer protection and net neutrality standards established in subsection (b) of this section.

(b) An Internet service provider is in compliance with the consumer protection and net neutrality standards of this section if it demonstrates and the Secretary finds that the Internet service provider:

(1) Does not engage in any of the following practices:

(A) blocking lawful content, applications, services, or nonharmful devices, subject to reasonable network management practices that are disclosed to its customers;

(B) impairing or degrading lawful Internet traffic on the basis of Internet content, application, or service or the use of a nonharmful device, subject to reasonable network management practices that are disclosed to its customers;

(C) engaging in paid prioritization or providing preferential treatment of some Internet traffic to any Internet customer, unless these prohibitions are waived pursuant to subsection (c) of this section;

(D) unreasonably interfering with or unreasonably disadvantaging either:

(i) a customer's ability to select, access, and use broadband Internet access service or lawful Internet content, applications, services, or devices of the customer's choice; or

(ii) an edge provider's ability to make lawful content, applications, services, or devices available to a customer; or

(E) engaging in deceptive or misleading marketing practices that misrepresent the treatment of Internet traffic or content to its customers.

(2) Publicly discloses accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services sufficient to enable consumers to make informed choices regarding the purchase and use of such services and to enable entrepreneurs and other small businesses to develop, market, and maintain Internet offerings. Such disclosure shall be made via a publicly available, easily accessible website.

(c) The Secretary of Administration may waive the prohibition on paid prioritization and preferential treatment under subdivision (b)(1)(C) of this section if the Internet service provider demonstrates and the Secretary finds that the practice would serve a legitimate and significant public interest and would not harm the open nature of the Internet in Vermont.

(d) As used in this section:

(1) "Broadband Internet access service" means a mass-market retail service by wire or radio in Vermont that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. The term also encompasses any service in Vermont that the Secretary finds to be providing a functional equivalent of the service described in this subdivision, or that is used to evade the protections established in this chapter.

(2) "Edge provider" means any person in Vermont that provides any content, application, or service over the Internet and any person in Vermont that provides a device used for accessing any content, application, or service over the Internet.

(3) "Internet service provider" or "provider" means a business that provides broadband Internet access service to any person in Vermont.

(4) "Paid prioritization" means the management of an Internet service provider's network to favor directly or indirectly some traffic over other

traffic, including through the use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either in exchange for consideration, monetary or otherwise, from a third party or to benefit an affiliated entity, or both.

(5) “Reasonable network management” means a practice that has a primarily technical network management justification but does not include other business practices and that is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.

Sec. 2. 3 V.S.A. § 349 is added to read:

§ 349. STATE CONTRACTING; INTERNET SERVICE

The Secretary of Administration shall include in Administrative Bulletin 3.5 a requirement that State procurement contracts for broadband Internet access service, as defined in subdivision 348(d)(3) of this title, include terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in section 348 of this title.

Sec. 3. 22 V.S.A. § 901 is amended to read:

§ 901. ~~DEPARTMENT OF INFORMATION AND INNOVATION~~ AGENCY OF DIGITAL SERVICES

(a) The ~~Department of Information and Innovation~~ Agency of Digital Services, created in 3 V.S.A. § 2283b, shall have all the responsibilities assigned to it by law, including the following:

\* \* \*

(15) To ensure that any State government contract for broadband Internet access service, as defined in 3 V.S.A. § 348(d)(3), contains terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in 3 V.S.A. § 348.

(b) As used in this section, “State government” means the agencies of the Executive Branch of State government.

Sec. 4. 2 V.S.A. § 754 is added to read:

§ 754. CONTRACTS FOR INTERNET SERVICE

Every contract for broadband Internet access service, as defined in 3 V.S.A. § 348(d)(3), for the Legislative Branch shall include terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in 3 V.S.A. § 348.

Sec. 5. 4 V.S.A. § 27a is added to read:

§ 27a. CONTRACTS FOR INTERNET SERVICE

Every contract to provide broadband Internet access service, as defined in 3 V.S.A. § 348(d)(3), for the Judicial Branch shall include terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in 3 V.S.A. § 348.

Sec. 6. APPLICATION

This act shall apply to all contracts for Internet service entered into or renewed on or after July 1, 2018.

Sec. 7. 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 protecting consumers and promoting an open Internet in Vermont.

(Committee vote: 6-1-0)

**Amendment to the recommendation of amendment of the Committee on Finance to S. 289 to be offered by Senator Brock**

Senator Brock moves to amend the recommendation of amendment of the Committee on Finance in Sec. 1, 3 V.S.A. § 348, in subdivision (b)(1), after the words “Does not engage in any of the following practices” and before the colon by inserting: in Vermont

**CONFIRMATIONS**

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Dean George of Middlebury – Chair, Parole Board (term 7/18/17 – 2/29/20)  
– By Sen. Mazza for the Committee on Institutions. (1/31/18)

Glenn O. Boyde of Colchester – Member, State Police Advisory Commission (term 9/6/17 – 6/30/21) – By Sen. Pearson for the Committee on Government Operations. (1/31/18)

Alison DeMag of South Burlington – Member, State Police Advisory Commission (term 8/5/17 – 6/30/20) – By Sen. Collamore for the Committee on Government Operations. (1/31/18)

Shirley Jefferson of South Royalton – Member, State Police Advisory Commission (term 9/6/17 – 6/30/21) – By Sen. Clarkson for the Committee on Government Operations. (1/31/18)

Mary Alice McKenzie of Burlington – Member, State Police Advisory Commission (term 8/5/17 – 6/30/20) – By Sen. Ayer for the Committee on Government Operations. (1/31/18)

Patti Pallito of Richmond – Member, State Police Advisory Commission (term 9/6/17 – 6/30/21) – By Sen. Collamore for the Committee on Government Operations. (1/31/18)

#### **PUBLIC HEARINGS**

**February 13, 2018 - 6:00 P.M. - 7:00 P.M.** - Room 11 - Re: Governor's Recommended FY 2019 State Budget - House Committee on Appropriations.

#### **NOTICE OF JOINT ASSEMBLY**

**Thursday, February 15, 2018 - 10:30 A.M.** - Election of two (2) trustees for the Vermont State Colleges Corporation.

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than Thursday, February 8, 2018, by 5:00 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

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

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

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

## FOR INFORMATION ONLY

### CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 2, 2018**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

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

**Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Fee Bill).**