

# Journal of the Senate

FRIDAY, FEBRUARY 24, 2017

In the absence of the President (who was Acting Governor in the absence of the Governor) the Senate was called to order by the President *pro tempore*.

## Devotional Exercises

Devotional exercises were conducted by the Reverend John H.D. Lucy of Waterbury Center.

## Message from the House No. 26

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

Mr. President:

I am directed to inform the Senate that:

**H. 201.** An act relating to length of stay at designated shelters.

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. 47.** House concurrent resolution designating February 16, 2017 as Afterschool Day at the State House.

**H.C.R. 48.** House concurrent resolution honoring former Brattleboro Town Clerk Annette Cappy.

**H.C.R. 49.** House concurrent resolution congratulating Doris Streeter of Dorset on being named a WCAX Television Super Senior.

**H.C.R. 50.** House concurrent resolution honoring Mary Ann Wilson for her outstanding public service in Morristown.

**H.C.R. 51.** House concurrent resolution congratulating the 2016 Proctor High School Phantoms Division IV boys' soccer championship team.

**H.C.R. 52.** House concurrent resolution designating March 4, 2017 as Carleton Upham Carpenter Jr. Day in Vermont.

**H.C.R. 53.** House concurrent resolution honoring former Shelburne Town Clerk and Treasurer Colleen Haag for her exemplary municipal service.

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

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**Joint Resolution Placed on Calendar**

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**J.R.S. 21.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Nitka,

**J.R.S. 21.** Joint resolution providing for a Joint Assembly to vote on the retention of a Chief Justice and three Justices of the Supreme Court and ten Superior Court Judges.

*Whereas*, declarations have been submitted by the following justices and judges that they be retained for another six-year term, the Honorable Justice Reiber, Justice Eaton, Jr., Justice Robinson, Justice Skoglund, Judge Arms, Judge Bent, Judge Carlson, Judge Corsones, Judge Devine, Judge DiMauro, Judge Kainen, Judge Morrissey, Judge Rainville and Judge Schoonover, and

*Whereas*, the procedures of the Joint Committee on Judicial Retention require at least two public hearings and the review of information provided by each judge and the comments of members of the Vermont bar and the public, and

*Whereas*, the Committee anticipates that it will be unable to fulfill its responsibilities under subsection 608(b) of Title 4 to evaluate the judicial performance of the judges seeking to be retained in office by March 9, 2017, the date specified in subsection 608(e) of Title 4, and for a vote in Joint Assembly to be held on March 16, 2017, the date specified in subsection 10(b) of Title 2, and

*Whereas*, subsection 608(g) of Title 4 permits the General Assembly to defer action on the retention of judges to a subsequent Joint Assembly when the Committee is not able to make a timely recommendation, *now therefore be it*

***Resolved by the Senate and House of Representatives:***

That the two Houses meet in Joint Assembly on Thursday, March 23, 2017, at nine o'clock and thirty minutes in the forenoon to vote on the retention of a Chief Justice and three Associate Justices of the Supreme Court and ten Superior Court Judges. In case the vote to retain said Justices and Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at nine o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

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

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**Bills Introduced**

Senate bills of the following titles were severally introduced, read the first time and referred:

**S. 93.**

By Senators Lyons, Ingram, Pearson and Sirotkin,  
An act relating to mental health parity for workers' compensation.  
To the Committee on Finance.

**S. 94.**

By Senators Lyons and Balint,  
An act relating to promoting remote work and flexible work arrangements.  
To the Committee on Economic Development, Housing and General Affairs.

**S. 95.**

By Senators Ayer, Cummings, Ingram, Lyons and McCormack,  
An act relating to sexual assault nurse examiners.  
To the Committee on Health and Welfare.

**S. 96.**

By Sears and White,  
An act relating to a news media privilege.  
To the Committee on Judiciary.

**S. 97.**

By Senators Pollina and White,  
An act relating to the publication of State, county, and municipal notice on electronic news media.  
To the Committee on Government Operations.

**S. 98.**

By Senators Pearson, Baruth, Branagan, Clarkson, Pollina, Sirotkin and White,  
An act relating to the Public Retirement Study Committee.  
To the Committee on Economic Development, Housing and General Affairs.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 3.**

An act relating to burial depth in cemeteries.

To the Committee on Economic Development, Housing and General Affairs.

**H. 201.**

An act relating to length of stay at designated shelters.

To the Committee on Health and Welfare.

**Third Reading Ordered****S. 87.**

Senate committee bill entitled:

An act relating to sexual exploitation of students.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senator Benning moved to amend the bill as follows:

First: In Sec. 2, 13 V.S.A. § 1386, after the word “adult”, by inserting the words or minor

Second: In Sec. 4. subsection (b), by striking out the word “eight” and inserting in lieu thereof the word ten

Third: In Sec. 4, subsection (b), by striking out subdivisions (7) and (8) in their entirety and inserting in lieu thereof the following:

(7) the Executive Director of the Department of State’s Attorneys and Sheriffs or designee;

(8) the Defender General or designee;

(9) the Commissioner of the Department for Children and Families or designee; and

(10) the Executive Director of the Vermont Superintendent’s Association or designee.

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Fourth: By adding a new Sec. 5 to read as follows:

Sec. 5. 16 V.S.A. § 914 is added to read:

§ 914. CHILD ABUSE AND NEGLECT HOTLINE

Each public school and each independent school shall post in English and Spanish the toll-free telephone number operated by the Department for Children and Families to receive reports of child abuse and neglect and directions for accessing the office of the Department for Children and Families and its website.

Fifth: By striking out Sec. 7 in its entirety and inserting in lieu thereof:

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except that Sec. 4 (Committee for Enhancing School Safety) and this section shall take effect on passage.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

**Bills Passed**

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

**S. 7.** An act relating to deferred sentences and the sex offender registry.

**S. 50.** An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility.

**S. 79.** An act relating to freedom from compulsory collection of personal information.

**Bill Amended; Third Reading Ordered**

**S. 3.**

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

An act relating to mental health professionals' duty to warn.

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

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly in this act to respond to the Vermont Supreme Court's decision in *Kuligoski v. Brattleboro Retreat and Northeast Kingdom Human Services*, 2016 VT 54A, by clarifying a mental

health professional's duty to disclose information concerning a client or patient in certain circumstances.

Sec. 2. 18 V.S.A. § 7115 is added to read:

§ 7115. MENTAL HEALTH PROFESSIONAL; DISCLOSURE OF INFORMATION

(a)(1) A mental health professional has a duty to exercise reasonable care to protect an identifiable victim or property from danger when the mental health professional knows or, based upon the standards of his or her respective mental health profession, should know that his or her client or patient poses:

(A) an imminent risk of serious danger to the identifiable victim; or

(B) an imminent risk to property to the extent that the risk represents a lethal threat to a person in the vicinity of the property.

(2) In discharging in good faith the duty described in subdivision (1) of this subsection:

(A) no cause of action against a mental health professional shall arise concerning client or patient privacy or confidentiality for disclosing information to third parties; and

(B) a mental health professional shall not be subject to criminal or civil liability.

(b) A mental health professional shall not be required to violate the standards of his or her respective mental health profession in disclosing information pursuant to this section.

(c) As used in this section:

(1) "Identifiable victim" means a potential victim or victims who are capable of being identified.

(2) "Mental health professional" means the same as in section 7101 of this title.

Sec. 3. 18 V.S.A. § 8011 is added to read:

§ 8011. DISCHARGE PLANS

(a) To the extent permitted under State and federal patient privacy laws, a mental health professional discharging a client or patient from a psychiatric inpatient hospital or residential setting shall include in the discharge plan all necessary information on the client or patient's condition to enable the person or persons named in the discharge plan to carry out his or her discharge functions.

(b) No cause of action against a mental health professional shall arise concerning client or patient privacy or confidentiality for disclosing information to third parties pursuant to subsection (a) of this section.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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.

**Bill Amended; Third Reading Ordered**

**S. 45.**

Senator Ingram, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to providing meals to health care providers at conferences.

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

Sec. 1. 18 V.S.A. § 4631a is amended to read:

§ 4631a. EXPENDITURES BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a) As used in this section:

(1) "Allowable expenditures" means:

(A) Payment to the sponsor of a significant educational, medical, scientific, or policy-making conference or seminar, provided:

(i) the payment is not made directly to a health care professional or pharmacist;

(ii) funding is used solely for bona fide educational purposes, except that the sponsor may, in the sponsor's discretion, apply some or all of the funding to provide meals and other food for all conference participants; and

(iii) all program content is objective, free from industry control, and does not promote specific products.

\* \* \*

(H) Sponsorship of an educational program offered by a medical device manufacturer at a national or regional professional society meeting at

which programs accredited by the Accreditation Council for Continuing Medical Education, or a comparable professional accrediting entity, are also offered, provided:

(i) no payment is made directly to a health care professional or pharmacist; and

(ii) the funding is used solely for bona fide educational purposes, except that the manufacturer may provide meals and other food for program participants.

(I) The provision of meals or other food for all conference participants at a significant educational, medical, scientific, or policy-making conference or seminar, as long as any content accompanying the meal or other food is accredited by the Accreditation Council for Continuing Medical Education or is otherwise objective, free from industry control, and does not promote specific products.

(J) Other reasonable fees, payments, subsidies, or other economic benefits provided by a manufacturer of prescribed products at fair market value.

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Sec. 2. 18 V.S.A. § 4632 is amended to read:

§ 4632. DISCLOSURE OF ALLOWABLE EXPENDITURES AND GIFTS  
BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a)(1) Annually on or before April 1 of each year, every manufacturer of prescribed products shall disclose to the ~~office of the attorney general~~ Office of the Attorney General for the preceding calendar year the value, nature, purpose, and recipient information of any allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title to any health care provider or to a member of the Green Mountain Care ~~board~~ Board established in chapter 220 of this title, except:

\* \* \*

(v) buffet meals, snacks, soft drinks, or coffee or other snacks or refreshments at a booth at a ~~made generally available to all participants of a significant educational, medical, scientific, or policy-making conference or seminar;~~

\* \* \*

And that when so amended the bill ought to pass.



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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.

**Rules Suspended; Bill Messaged**

On motion of Senator Sears, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

**S. 79.**

**Committee Relieved of Further Consideration; Bill Committed**

**S. 96.**

On motion of Senator Sears, the Committee on Judiciary was relieved of further consideration of Senate bill entitled:

An act relating to a news media privilege,  
and the bill was committed to the Committee on Government Operations.

**Excused from Session**

Senators Kitchel, Cummings, Ayer, Rodgers, Collamore and Balint were excused from the session and voting today.

**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 Reps. Miller and others,

**H.C.R. 47.**

House concurrent resolution designating February 16, 2017 as Afterschool Day at the State House.

By Reps. Burke and others,

By Senators Balint and White,

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

House concurrent resolution honoring former Brattleboro Town Clerk Annette Cappy.

By Rep. Sullivan,

By Senators Campion and Sears,

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

House concurrent resolution congratulating Doris Streeter of Dorset on being named a WCAX Television Super Senior.

By Reps. Nolan and others,

By Senator Westman,

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

House concurrent resolution honoring Mary Ann Wilson for her outstanding public service in Morristown.

By Reps. Potter and others,

By Senators Collamore, Flory, and Mullin,

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

House concurrent resolution congratulating the 2016 Proctor High School Phantoms Division IV boys' soccer championship team.

By Reps. Morrissey and others,

By Senators Campion and Sears,

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

House concurrent resolution designating March 4, 2017 as Carleton Upham Carpenter Jr. Day in Vermont.

By Reps. Webb,

By Senators Ashe, Baruth, Ingram, Lyons, Pearson, and Sirotkin,

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

House concurrent resolution honoring former Shelburne Town Clerk and Treasurer Colleen Haag for her exemplary municipal service.

**Adjournment**

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, February 28, 2017, at nine o'clock and thirty-one minutes in the forenoon pursuant to J.R.S. 20.