

Journal of the Senate

TUESDAY, MARCH 21, 2017

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Bills Referred to Committee on Finance

Senate bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

S. 34. An act relating to cross-promoting development incentives and State policy goals.

S. 103. An act relating to the regulation of toxic substances and hazardous materials.

S. 127. An act relating to miscellaneous changes to laws related to vehicles and vessels.

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 severally referred to the Committee on Appropriations:

S. 95. An act relating to sexual assault nurse examiners.

S. 130. An act relating to miscellaneous changes to education laws.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 24.

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Ashe,

J.R.S. 24. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 24, 2017, it be to meet again no later than Tuesday, March 28, 2017.

Joint Resolution Placed on Calendar**J.R.S. 25.**

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

By Committee on Institutions,

J.R.S. 25. Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to amend conservation easements related to the former Hancock Lands and adjacent Averill Inholdings in Essex County and to sell the Bertha Tract in Mendon and the Burch Tract in Killington to the Trust for Public Land.

Whereas, in 1996, the Department of Forests, Parks and Recreation acquired from the John Hancock Mutual Life Insurance Company a conservation easement for certain lands (known as the Hancock Lands) in Warren's Gore, and separately in 2005, the Department acquired a second conservation easement for inholdings within the former Hancock Lands in the town of Averill, and

Whereas, these easements envisioned that the covered lands could be subdivided and would be dedicated primarily to conservation purposes but commercial forestry management, including maple sugaring and syrup activities, were permissible, and

Whereas, the Department has now determined that the language in both easements is ambiguous concerning the construction of forestry-related structures such as a sugarhouse, and

Whereas, upon consultation with the U.S. Forest Service, whose Forest Legacy Program facilitated the Department's acquisition of the easements, the Department has determined the easements should be amended with clarifying language subject to the approval of the owners of the parcels that resulted from the subdivision, and

Whereas, the Department owns the Bertha Tract in Mendon and the adjacent Burch Tract in Killington, both of which contain Green Mountain Club-held easements for segments of the Long Trail, and

Whereas, the Department proposes to sell these tracts to the Trust for Public Land in anticipation of their eventual transfer to the U.S. Forest Service for inclusion in the Green Mountain National Forest at which time the Green

Mountain Club's easements would terminate and the covered Long Trail segments would be subject to federal protection, and

Whereas, pursuant to the authority granted in 10 V.S.A. § 2606(b), the Commissioner of Forests, Parks and Recreation believes that these land transactions are in the best interest of the State, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly authorizes the Commissioner of Forests, Parks and Recreation:

First: To amend certain terms and conditions of the conservation easements that the Department acquired with federal Forest Legacy funding on (i) approximately 31,000 acres (known as the Hancock Lands) from the John Hancock Mutual Life Insurance Company on December 17, 1996, and (ii) on 210 acres (known as the Averill Inholdings) from the Trust for Public Land on December 7, 2005 in order to clarify the allowed uses for forest-management-related structures and facilities, including their associated infrastructure and utilities.

Second: To sell to the Trust for Public Land two tracts: (i) an approximately 113-acre tract in the town of Mendon (known as the Bertha Tract), and (ii) a 581-acre tract in the town of Killington (known as the Burch Tract), both of which the Department acquired from the Green Mountain Club on March 31, 2003 and that the sale shall be pursuant to the terms of a mutually satisfactory purchase and sale agreement. The selling price shall be based on the tracts' fair market value that an appraisal shall determine. The sale of these tracts is contingent on support from the towns of Mendon and Killington. The sale's proceeds shall be deposited in the Agency of Natural Resources Land Acquisition Fund to be used to acquire additional properties for Long Trail protection purposes, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Commissioner of Forests, Parks and Recreation.

Thereupon, under the rules, the joint resolution was placed on the Calendar for notice the next legislative day.

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. 131.

By the Committee on Government Operations,
An act relating to State's Attorneys and sheriffs.

Bill Introduced

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

S. 132.

By Senators Campion, Ayer, Lyons, Pearson and Sirotkin,
An act relating to the disclosure of lobbyist employer membership.
To the Committee on Government Operations.

Committee Bills Introduced

Senate committee bills of the following titles were severally introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 133.

By the Committee on Health and Welfare,
An act relating to examining mental health care and care coordination.

S. 134.

By the Committee on Judiciary,
An act relating to court diversion and pretrial services.

S. 135.

By the Committee on Economic Development, Housing and General Affairs,
An act relating to promoting economic development.

S. 136.

By the Committee on Economic Development, Housing and General Affairs,
An act relating to miscellaneous consumer protection provisions.

Bill Introduced

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

S. 137.

By Senator Ashe,

An act relating to promoting workforce development.

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

Bill Amended; Third Reading Ordered**S. 61.**

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

An act relating to offenders with mental illness.

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. § 4820 is amended to read:

§ 4820. HEARING REGARDING COMMITMENT

(a) The court before which a person is tried or is to be tried for a criminal offense shall hold a hearing for the purpose of determining whether the person should be committed to the custody of the Commissioner of Mental Health or, as provided in 18 V.S.A. chapter 206, to the Commissioner of Disabilities, Aging, and Independent Living, if the person is charged on information, complaint, or indictment with the offense and:

(1) is reported by the examining psychiatrist following examination pursuant to sections 4814–4816 of this title to have been insane at the time of the alleged offense;

(2) is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to a mental illness, ~~intellectual~~ developmental disability, or traumatic brain injury;

(3) is not indicted upon hearing by grand jury by reason of insanity at the time of the alleged offense, duly certified to the court; or

(4) upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense.

(b) A person subject to a hearing under subsection (a) of this section may be confined in jail or some other suitable place by order of the court pending hearing for a period not exceeding 15 days.

(c) For a person who is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to mental illness or developmental

disability, the court shall appoint counsel from the Mental Health Law Project to represent the person who is the subject of the proceedings and from the Office of the Attorney General to represent the State in the proceedings.

Sec. 2. 13 V.S.A. § 4821 is amended to read:

§ 4821. NOTICE OF HEARING; PROCEDURES

The person who is the subject of the proceedings, his or her attorney, the legal guardian, if any, the Commissioner of Mental Health or the Commissioner of Disabilities, Aging, and Independent Living, and the ~~State's Attorney or other prosecuting officer representing~~ counsel appointed pursuant to subsection 4820(c) of this title to represent the State in the case, shall be given notice of the time and place of a hearing under 4820 of this title. Procedures for hearings for persons who are mentally ill shall be as provided in 18 V.S.A. chapter 181. Procedures for hearings for persons who are intellectually disabled or have a traumatic brain injury shall be as provided in 18 V.S.A. chapter 206, subchapter 3.

Sec. 3. 28 V.S.A. § 3 is amended to read:

§ 3. GENERAL DEFINITIONS

As used in this title:

* * *

(12) Despite other names this concept has been given in the past or may be given in the future, "segregation" means a form of separation from the general population that may or may not include placement in a single occupancy cell and that is used for disciplinary, administrative, or other reasons, but shall not mean confinement to an infirmary or a residential treatment setting for purposes of evaluation, treatment, or provision of services.

Sec. 4. 28 V.S.A. § 701a(b) is amended to read:

~~(b) For purposes of this title, and despite other names this concept has been given in the past or may be given in the future, "segregation" means a form of separation from the general population which may or may not include placement in a single occupancy cell and which is used for disciplinary, administrative, or other reasons~~ As used in this section, "segregation" shall have the same meaning as in subdivision 3(12) of this title.

Sec. 5. 28 V.S.A. § 907 is amended to read:

§ 907. MENTAL HEALTH SERVICE FOR INMATES; POWERS AND RESPONSIBILITIES OF COMMISSIONER

The Commissioner shall administer a program of trauma-informed mental health services which shall be available to all inmates and shall provide adequate staff to support the program. The program shall provide the following services:

(1)(A) Within 24 hours of admittance to a correctional facility, all inmates shall be screened for any signs of mental illness, mental condition or, psychiatric disability or disorder, or serious functional impairment. If as a result of the screening it is determined that the inmate is receiving services under the developmental disabilities home and ~~community-based~~ community-based services waiver or is currently receiving community rehabilitation and treatment services, he or she will automatically be designated as having a serious functional impairment.

(B) Every inmate who is identified as a result of screening by a mental health professional as requiring inpatient evaluation, treatment, or services shall, within 24 hours of the screening, be referred for such treatment, evaluation, or services in a setting appropriate to the clinical needs of the inmate.

* * *

Sec. 6. 28 V.S.A. § 907 is amended to read:

§ 907. MENTAL HEALTH SERVICE FOR INMATES; POWERS AND RESPONSIBILITIES OF COMMISSIONER

The Commissioner shall administer a program of trauma-informed mental health services ~~which that~~ shall be available to all inmates and shall provide adequate staff to support the program. The program shall provide the following services:

(1)(A) Within 24 hours of admittance to a correctional facility, all inmates shall be screened for any signs of mental illness, mental condition, psychiatric disability or disorder, or serious functional impairment. If as a result of the screening it is determined that the inmate is receiving services under the developmental disabilities home and ~~community-based~~ community-based services waiver or is currently receiving community rehabilitation and treatment services, he or she will automatically be designated as having a serious functional impairment.

(B) Every inmate who is identified as a result of screening by a mental health professional as requiring inpatient evaluation, treatment, or services

shall, within 24 ~~48~~ hours of the screening, be referred ~~for~~ provided with such treatment, evaluation, or services in a setting appropriate to the clinical needs of the inmate.

* * *

Sec. 7. AGENCY OF HUMAN SERVICES; OFFICE OF THE ATTORNEY GENERAL; REPORT TO JUSTICE OVERSIGHT COMMITTEE

On or before October 15, 2017:

(1) the Secretary of Human Services shall report to the Justice Oversight Committee on how best to provide mental health treatment and services to offenders in the custody of the Department of Corrections, including recommendations on whether those services should be provided by a classified State employee working within the Agency of Human Services, by designated agencies, or by other professionals contracted for professional mental health care services within the Department; and

(2) the Attorney General, in consultation with the Secretary of Human Services, shall report to the Justice Oversight Committee on the resources necessary for the State to comply with the requirements set forth in 13 V.S.A. § 4820(c).

Sec. 8. LEGISLATIVE INTENT; DEPARTMENT OF CORRECTIONS; USE OF SEGREGATION

It is the intent of the General Assembly that the Department of Corrections continue to house inmates in the least restrictive setting necessary to ensure their own safety as well as the safety of staff and other inmates, and to use segregation only in instances when it serves a specific disciplinary or administrative purpose, pursuant to 28 V.S.A. § 3, and to ensure that inmates designated as seriously functionally impaired or inmates with a serious mental illness receive the support and rehabilitative services they need.

Sec. 9. DEPARTMENT OF CORRECTIONS; DEPARTMENT OF MENTAL HEALTH; FORENSIC MENTAL HEALTH CENTER; MEMORANDUM OF UNDERSTANDING FOR PROVISION OF MENTAL HEALTH SERVICES; REPORT TO JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

On or before July 1, 2017, the Department of Corrections shall:

(1) in accordance with the principles set forth in 18 V.S.A. § 7251, and in consultation with the Department of Health and the designated agencies, develop a plan to create or establish access to a forensic mental health center on or before January 2, 2018 to provide comprehensive assessment, evaluation, and treatment for detainees and inmates with mental illness, while preventing inappropriate segregation;

(2) jointly with the Department of Mental Health, execute a memorandum of understanding to coordinate the provision of mental health treatment and services to inmates and detainees prior to January 2, 2018; and

(3) together with the Department of Mental Health, report on the status of the memorandum of understanding and the forensic mental health center plan to the Joint Legislative Justice Oversight Committee.

Sec. 10. EFFECTIVE DATES

(a) This section and Sec. 9 (Department of Corrections; Department of Mental Health; forensic mental health center; memorandum of understanding for provision of mental health services; report to Joint Legislative Justice Oversight Committee) shall take effect on passage.

(b) Secs. 3 (general definitions), 4 (28 V.S.A. § 701a(b)), 5 (mental health service for inmates; powers and responsibilities of commissioner), 7 (Agency of Human Services; Office of the Attorney General Report to Justice Oversight Committee), and 8 (legislative intent, Department of Corrections; use of segregation) shall take effect on July 1, 2017.

(c) Sec. 6 (mental health service for inmates; powers and responsibilities of Commissioner) shall take effect on January 2, 2018.

(d) Secs. 1 (hearing regarding commitment) and 2 (notice of hearing; procedures) shall take effect on July 1, 2018.

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; Bill Passed

S. 22.

Senate bill entitled:

An act relating to increased penalties for possession, sale, and dispensation of fentanyl.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the bill by striking out Sec. 5, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 5. EFFECTIVE DATES

This section and Sec. 4 (ephedrine and pseudoephedrine) shall take effect on passage. The remaining sections shall take effect on July 1, 2017.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bill Passed**S. 112.**

Senate bill of the following title was read the third time and passed:

An act relating to creating the Spousal Support and Maintenance Task Force.

Rules Suspended; Bills Taken Up for Immediate Consideration; Bills Referred

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and Senate bills entitled:

S. 131. An act relating to State's Attorneys and sheriffs.

S. 133. An act relating to examining mental health care and care coordination.

S. 135. An act relating to promoting economic development.

Were taken up for immediate consideration.

Thereupon, on motion of Senator Ashe, the rules were suspended, and these bills carrying appropriations or requiring the expenditure of funds, were severally referred to the Committee on Appropriations under Senate Rule 31.

Rules Suspended; Bills Taken Up for Immediate Consideration; Bill Referred

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and Senate bill entitled:

S. 136. An act relating to miscellaneous consumer protection provisions.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill affecting the revenue of the state, was referred to the Committee on Finance under Senate Rule 31.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 22, 2017.