

Journal of the Senate

FRIDAY, JANUARY 23, 2009

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bills Introduced

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

S. 34.

By Senators Miller, Ashe, Ayer, Campbell, Carris, Flanagan, Giard, Kittell, Lyons, McCormack, Racine, Shumlin and White,

An act relating to the agreement among the states to elect the president by national popular vote.

To the Committee on Government Operations.

S. 35.

By Senators White, Ashe, Ayer, Bartlett, Campbell, Carris, Giard, Hartwell, Kitchel, Kittell, Lyons, Miller, Racine, Sears, Snelling and Starr,

An act relating to campaign finance.

To the Committee on Government Operations.

S. 36.

By Senators Sears, Mullin and Cummings,

An act relating to voting procedures for judicial retention.

To the Committee on Judiciary.

S. 37.

By Senator Mullin,

An act relating to billing for health services.

To the Committee on Health and Welfare.

Recess

On motion of Senator Shumlin the Senate recessed until the fall of the gavel.

Called to Order

At nine o'clock and fifteen minutes in the forenoon the Senate was called to order by the President.

Bill Amended; Bill Passed; Rules Suspended; Bill Messaged

S. 13.

Senate bill entitled:

An act relating to improving Vermont's sexual abuse response system.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears, on behalf of the Committee on Judiciary moved to amend the bill as follows

First: In Sec. 25, 20 V.S.A. § 1940(a)(3), after the following: “that is a misdemeanor” by inserting the following: other than domestic assault pursuant to 13 V.S.A. § 1042 or a sex offense for which registration is required pursuant to 13 V.S.A. § 5401 et. seq.

Second: In Sec. 27, by striking out the figure: “21” and inserting in lieu thereof the figure: 26

Third: In Sec. 30, 13 V.S.A. § 3253a, in subdivision (a)(2), by striking out the following: “sexually assaulting” and inserting in lieu thereof the following: committing a nonconsensual sexual act upon

Fourth: By adding a new section to be numbered Sec. 30a, to read as follows:

Sec. 30a. 13 V.S.A. § 3253 is amended to read:

§ 3253. AGGRAVATED SEXUAL ASSAULT

(a) A person commits the crime of aggravated sexual assault if the person commits sexual assault under any one of the following circumstances:

* * *

(2) The actor is joined or assisted by one or more persons in physically restraining, assaulting or ~~sexually assaulting~~ committing a nonconsensual sexual act upon the victim.

* * *

Fifth: In Sec. 33, 13 V.S.A. § 7041, in subsection (c), after the following: “lewd and lascivious conduct with a child” by adding the following: unless the victim and the defendant were within five years of age and the act was consensual

Sixth: In Sec. 41, 28 V.S.A. § 255, in subsection (c), by striking out the following: “, unless all parties and the department of corrections have filed notice in support of discharge with the court”

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Sears on behalf of the Committee on Judiciary?, Senator Sears requested and was granted leave to withdraw the *third* and *fourth* recommendations of amendment.

Thereupon, the question, Shall the bill be amended as recommended by Senator Sears on behalf of the Committee on Judiciary in the *first*, *second*, *fifth* and *sixth* recommendations of amendment?, was decided in the affirmative.

Thereupon, pending third reading of the bill, Senator Brock, on behalf of the Committee on Education moved to amend the bill as follows:

First: In Sec. 4, 16 V.S.A. § 254, by adding a new subsection (f) to read as follows:

(f) A person who has a conviction for a sex offense that requires registration pursuant to section 13 V.S.A. § 5401 shall not be eligible for an initial license, for renewal of a license, or for reinstatement of a lapsed license as a professional educator or for employment as a superintendent of schools in Vermont.

Second: In Sec. 5, 16 V.S.A. § 255, by adding a new subsection (i) to read as follows:

(i) A person who has a conviction for a sex offense that requires registration pursuant to section 13 V.S.A. § 5401 shall not be eligible to serve in the capacity as provided in subdivisions (a)(1)–(4) of this section.

Which were collectively agreed to.

Thereupon, pending third reading of the bill, Senators Miller and White moved to amend the bill by adding a new section to be numbered Sec. 52a to read as follows:

Sec. 52a. 13 V.S.A. §3252(c)(2) is amended to read:

(2) where the person is less than ~~19~~ 21 years old, the child is at least ~~15~~ 14 years old, and the sexual act is consensual.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Miller and White?, Senator White requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, pending third reading of the bill, Senators Illuzzi, MacDonald, Starr, Choate and Kitchel moved to amend the bill by as follows:

First: In Sec. 17(a) at the end of subsection (a) by inserting the following:

The funds shall be allocated to special investigative units created to ensure equal levels of service in all regions of the state in a manner consistent with the counties' geographics.

Second: By adding two new subsections to be lettered (c) and (d), to read as follows:

(c) The special investigative unit now serving Essex, Orleans, Caledonia and Orange Counties shall be dissolved and replaced with units as set forth in Sec. 17(a) above.

(d) The sheriffs and the state's attorneys in Essex, Orleans, Caledonia and Orange Counties, after consulting with the state police station commanders in Derby, St. Johnsbury and Bradford, shall by majority vote, at a meeting convened for this purpose, decide which municipalities shall be included in the replacement special investigative units.

Third: By adding a new section to be numbered Sec. 52a to read as follows:

Sec. 52a. 24 V.S.A. §1940(c) is amended to read:

(c) A specialized investigative unit grants board is created which shall be comprised of the attorney general, the secretary of administration, the executive director of the department of state's attorneys, the commissioner of the department of public safety, the executive director of the center for crime victim services, and the executive director of the Vermont League of Cities and Towns. Specialized investigative units organized and operating under this section for the investigation of sex crimes, child abuse, elder abuse, domestic violence, or crimes against those with physical or developmental disabilities may apply to the board for a grant or grants covering the costs of salaries and employee benefits to be expended during a given year for the performance of unit duties as well as unit operating costs for rent, utilities, equipment, training, and supplies. Grants under this section shall be approved by a majority of the entire board and shall not exceed 50 percent of the yearly salary and employee benefit costs of the unit. Preference shall be given to grant applications which include the participation of the department of public safety, the department for

children and families, sheriffs' departments and municipalities within the region.

Fourth: By amending Sec. 53(b) by striking out the following: "and 33-48" and inserting in lieu thereof the following: 33-48 and 52a

Which were collectively agreed to.

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

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Message from the House No. 11

A message was received from the House of Representatives by Mr. William M. MaGill, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 9. Joint resolution relating to weekend adjournment.

And has passed the same in concurrence.

Adjournment

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, January 27, 2009, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 9.