Journal of the Senate

TUESDAY, FEBRUARY 16, 2010

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Kevin Rooney of Northfield.

Pledge of Allegiance

Pages Johannah Mitchell and Brian Renfro then led the members of the Senate in the pledge of allegiance.

Message from the House No. 20

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

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 34. Joint resolution in support of the New England Secondary School Consortium.

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

Committee Bill Introduced; Rules Suspended; Bill Committed

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. 288.

By the Committee on Economic Development, Housing and General Affairs,

An act relating to the Vermont recovery and reinvestment act of 2010.

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Shumlin, the rules were suspended and the bill was taken up for immediate consideration.

Thereupon, pending second reading of the bill, on motion of Senator Shumlin, the bill was committed to the Committee on Finance.

Senator Shumlin Assumes the Chair

Joint Resolution Adopted on the Part of the Senate

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

By Senator Shumlin,

J.R.S. 49. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 19, 2010, it be to meet again no later than Tuesday, February 23, 2010.

Joint Resolution Referred

J.R.H. 34.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution in support of the New England Secondary School Consortium.

Whereas, the New England Secondary School Consortium—a multistate partnership forged to promote and advance higher educational aspirations, performance, and attainment among the adolescents of Connecticut, Maine, New Hampshire, Rhode Island, and Vermont—has been and will continue to be a force for enhancing the quality of Vermont's system of public secondary education, and

Whereas, Vermont must transform—from its state house to its schoolhouses—educational policies, assessment practices, teaching strategies, professional development, and state and local leadership to ensure that the educational achievement of its students will be competitive with that of their peers across New England and the globe and that every student will graduate prepared for success in the colleges, careers, and communities of the 21st century, and

Whereas, education and high levels of postsecondary-degree attainment are critical to workforce development, job creation, and sustainable, long-term economic prosperity in the 21st century, and

Whereas, it is critical that Vermont strive to improve educational quality, opportunity, and efficacy for its citizens through regional collaboration,

resource sharing, expertise exchange, and cross-state student performance and achievement comparability, and

Whereas, the consortium is developing: (1) internationally competitive educational models and instructional programs at the secondary level that will redefine the traditional concept of the public high school to more effectively mirror the lives and learning needs of today's students; (2) learning standards that reflect the ways in which our students will live, work, learn, and lead in the 21st century; (3) new state and local policies designed to stimulate educational innovation and creativity; and (4) performance assessments that can more accurately measure the essential academic knowledge and critical life skills that Vermont students will apply throughout their lives and across all educational, career, and civic contexts, and

Whereas, the New England states share similar histories, demographic populations, interdependent economic prospects, and educational and social challenges, and

Whereas, the independent and collective interests of our states can be more effectively served through strategic partnerships that can improve the educational, career, and life outcomes of our citizens, and

Whereas, the consortium is fostering a coordinated regional effort to build broad-based support for its major initiatives among educators, policy-makers, and business leaders while also engaging parents and community members in the educational process through local school involvement, positive messaging, community outreach, and cross-state networking, and

Whereas, innovative regional collaborations have the potential to attract significant public and private investments, create a more highly skilled workforce, attract new economic opportunities, drive sustained economic growth, and improve the quality of life for all Vermont residents, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its strong support and endorsement of the New England Secondary School Consortium and its mission, goals, and strategies, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Governor James Douglas, Commissioner of Education Armando Vilaseca, the commissioners of education for Connecticut, Maine, New Hampshire, and Rhode Island; the executive director of the Great Schools Partnership; the president of the Nellie Mae Education Foundation; and the director of education for the Bill & Melinda Gates Foundation.

Thereupon, in the discretion of the President *pro tempore*, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Education.

Bill Passed

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

S. 287. An act relating to the licensing and regulation of loan servicers.

Further Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 331.

House bill entitled:

An act relating to technical changes to the records management authority of the Vermont State Archives and Records Administration.

Was taken up.

Thereupon, pending third reading of the bill, Senator White, moved that the Senate further propose to the House to amend the bill by striking out Sec. 13 in its entirety and inserting in lieu thereof a new Sec. 13 to read as follows:

Sec. 13. 27 V.S.A. § 1403(b) is amended to read:

(b) Plats filed in accordance with this chapter shall also conform with the following further requirements:

(1) ~~Plat sheet materials and the inscriptions and drawings thereon shall conform with material specifications determined by the commissioner of buildings and general services, and shall be chosen for their permanence and clarity.~~

~~(2)~~ Each survey plat shall contain an inset locus map clearly indicating the location of the land depicted and a legend of symbols used.

~~(3)~~ (2) All lettering and data shall be clearly legible.

~~(4)~~ (3) Plat scale ratios shall be sufficient to allow all pertinent survey data to be shown, and each plat shall contain a graphic scale graduated in units of measure used in the body of the plat.

~~(5)~~ (4) Each plat sheet shall have a minimum one-half inch margin, except the binder side, which shall have a minimum one and one-half inch margin.

~~(6)~~ (5) Each plat sheet shall contain a title area in the lower right-hand corner of the sheet stating the location of the land, scale expressed in engineering units, date of compilation, the name of the record owner as of that date, the land surveyor's certification as outlined in section 2596 of Title 26, and a certification that the plat conforms with requirements of this section. These certifications shall be accompanied by the responsible land surveyor's seal, name and number, and signature.

~~(7)~~ (6) Each survey plat shall contain a graphical indication of the reference meridian used on the survey plat and a statement describing the basis of bearings referenced on the survey plat.

~~(8)~~ (7) When the plat sheet is produced by a reproduction process, the process shall be identified and certified to by the producer in the margin of the plat sheet. ~~The methods of reproduction and certification shall be determined by the commissioner of buildings and general services.~~ Original plat sheets shall be so identified and certified to by the same process.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Proposal of Amendment; Third Reading Ordered

H. 533.

Senator Nitka, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to military parents' rights.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The Vermont general assembly finds that:

(1) The military population in our state exceeds 5,000 Vermonters, a majority of whom serve a traditional part-time role. Many of these service members are parents to children under the age of 18.

(2) The mobilization of these military parents, with sometimes little advance notice, can have a disruptive effect on custody or visitation arrangements involving minor children.

(3) It is in the best interests of these children to minimize the loss of parental contact and disruption of the family that results from the service member's absence pursuant to military orders due to temporary duty performed outside the state, deployment, or mobilization.

(4) It is important to maintain parent-child contact as much as feasible when the child's parent is absent due to military orders.

(5) It is in the best interests of these children for the courts to address the military membership of one or both parents at the time of the initial custodial order or anytime thereafter, regardless of whether the service member has temporary duty orders or a deployment or mobilization order.

(6) The regular scheduling of hearings may be harmful to the interest of service members who, due to military orders, may need an expedited hearing or may need to use electronic means to give testimony when they cannot appear in person in court.

(7) The use of expedited hearings and testimony by electronic means, at the request of the service member who is absent or about to depart, would aid and promote fair, efficient, and prompt judicial processes for the resolution of family law matters.

Sec. 2. 15 V.S.A. chapter 11, subchapter 4a is added to read:

Subchapter 4a. Military Parents' Rights Act

§ 681. DEFINITIONS

As used in this subchapter:

(1) "Deploy" and "deployment" mean military service in compliance with military orders received by a member of the United States Armed Forces, including any reserve component thereof to report for combat operations, contingency operations, peacekeeping operations, a remote tour of duty, or other active service for which the deploying parent is required to report unaccompanied by any family member. Deployment includes a period during which a military parent remains subject to deployment orders and remains deployed on account of sickness, wounds, leave, or other lawful cause.

(2) "Deploying parent" means a military parent who has been notified by military leadership that he or she will deploy or mobilize with the United States Armed Forces, including any reserve component thereof, or who is currently deployed or mobilized with the United States Armed Forces, including any reserve component thereof. "Nondeploying parent" means a parent who is either not a member of the United States Armed Forces,

including any reserve component thereof, or is a military parent who is currently not a deploying parent.

(3) "Military parent" means a natural parent, adoptive parent, or legal parent of a child under the age of 18 whose parental rights have not been terminated or transferred to the state or another person through a juvenile proceeding pursuant to chapter 53 of Title 33 or guardianship pursuant to chapter 111 of Title 14 by a court of competent jurisdiction, and who is a member of the United States Armed Forces, including any reserve component thereof.

(4) "Mobilization" and "mobilize" mean the call-up of National Guard or Reserve service members to extended active service. For purposes of this definition, "mobilization" does not include National Guard or reserve annual training, inactive duty days, drill weekends, temporary duty, or state active duty.

(5) "State active duty" means the call-up by a governor for the performance of any military duty in state status.

(6) "Temporary duty" means the transfer of a service member to a geographic location outside Vermont for a limited period of time to accomplish training or to assist in the performance of a noncombat mission.

§ 682. FINAL ORDER; MODIFICATION

(a) If a deploying parent is required to be separated from a child as a result of deployment, a court shall not enter a final order modifying parental rights and responsibilities and parent-child contact in an existing order until 90 days after the deployment ends, unless such modification is agreed to by the deploying parent.

(b) Absence created by deployment or mobilization or the potential for future deployment or mobilization shall not be the sole factor supporting a real, substantial, and unanticipated change in circumstances pursuant to section 668 of this title.

§ 683. TEMPORARY MODIFICATION

(a) Upon motion of a deploying or nondeploying parent, the court shall enter a temporary order modifying parental rights and responsibilities or parent-child contact during the period of deployment or mobilization when:

(1) a military parent who has shared, sole, or primary legal or physical parental rights and responsibilities for a child or who has parent-child contact pursuant to an existing court order has received notice from military leadership that he or she will deploy or mobilize in the near future; and

(2) the deployment or mobilization would have a material effect upon his or her ability to exercise such parental rights and responsibilities or parent-child contact.

(b) Motions for modification because of deployment shall be heard by the court as expeditiously as possible, and shall be a priority for this purpose.

(c)(1) All temporary modification orders shall include a specific transition schedule to facilitate a return to the predeployment order over the shortest reasonable time period after the deployment ends, taking into consideration the child's best interests.

(2) The temporary order shall set a date certain for the end of deployment and the start of the transition period. If deployment is extended, the temporary order shall remain in effect during the extended deployment, and the transition schedule shall take effect at the end of the extended deployment. In that case, the nondeployed parent shall notify the court of the extended deployment. Failure of the nondeployed parent to notify the court in accordance with this subdivision shall not prejudice the deployed parent's right to return to the prior order once the temporary order expires as provided in subdivision (3) of this subsection.

(3) The temporary order shall expire upon the completion of the transition, and the prior order for parental rights and responsibilities and parent-child contact shall be in effect.

(d) Upon motion of the deploying parent, the court may delegate his or her parent-child contact rights, or a portion of them, to a family member, a person with whom the deploying parent cohabits, or another person with a close and substantial relationship to the minor child or children for the duration of the deployment, upon a finding that it is in the child's best interests. Such delegated contact does not create separate rights to parent-child contact for a person other than a parent once the temporary order is no longer in effect.

(e) A temporary modification order issued pursuant to this section shall designate the deploying parent's parental rights and responsibilities for and parent-child contact with a child during a period of leave granted to the deploying parent, in the best interests of the child.

(f) A temporary order issued under this section may require any of the following if the court finds that it is in the best interests of the child:

(1) The nondeploying parent shall make the child reasonably available to the deploying parent when the deploying parent has leave.

(2) The nondeploying parent shall facilitate opportunities for telephonic, electronic mail, and other such contact between the deploying parent and the child during deployment.

(3) The deploying parent shall provide timely information regarding his or her leave schedule to the nondeploying parent. Actual leave dates are subject to change with little notice due to military necessity and shall not be used by the nondeploying parent to prevent parent-child contact.

(g) A court order modifying a previous order for parental rights and responsibilities or parent-child contact because of deployment shall specify that the deployment is the basis for the order, and it shall be entered by the court as a temporary order. The order shall further require the nondeploying parent to provide the court and the deploying parent with 30 days' advance written notice of any change of address and any change of telephone number.

§ 684. EMERGENCY MOTION TO MODIFY; PERMANENT MODIFICATION

(a) Upon the return of the deploying parent, either parent may file a motion to modify the temporary order on the grounds that compliance with the order will result in immediate danger of irreparable harm to the child, and may request that the court issue an ex parte order. The deploying parent may file such a motion prior to his or her return. The motion shall be accompanied by an affidavit in support of the requested order. Upon a finding of irreparable harm based on the facts set forth in the affidavit, the court may issue an ex parte order modifying parental rights and responsibilities and parent-child contact. If the court issues an ex parte order, the court shall set the matter for hearing within ten days from the issuance of the order.

(b) Nothing in this chapter shall preclude the court from hearing a motion for permanent modification of parental rights and responsibilities or parent-child contact prior to or upon return of the deploying parent. The moving party shall bear the burden of showing a real, substantial, and unanticipated change in circumstances and that resumption of the parental rights and responsibilities or parent-child order in effect before the deployment is no longer in the child's best interests. Absence created by deployment or mobilization or the potential for future deployment or mobilization shall not be the sole factor supporting a real, substantial, and unanticipated change in circumstances pursuant to section 668 of this title.

§ 685. TESTIMONY AND EVIDENCE

Upon motion of a deploying parent, provided reasonable advance notice is given and good cause shown, the court shall allow such parent to present

testimony and evidence by electronic means with respect to parental rights and responsibilities or parent-child contact matters instituted under this section when the deployment of that parent has a material effect on his or her ability to appear in person at a regularly scheduled hearing. The phrase "electronic means" includes communication by telephone or video teleconference.

§ 686. NO EXISTING FINAL ORDER

(a) If there is no existing order establishing the terms of parental rights and responsibilities or parent-child contact and it appears that deployment or mobilization is imminent, upon an action filed under this chapter by either parent, the court shall expedite a hearing to establish temporary parental rights and responsibilities and parent-child contact to ensure the deploying parent has access to the child, to ensure disclosure of information, to grant other rights and duties set forth herein, and to provide other appropriate relief.

(b) Any initial pleading filed to establish parental rights and responsibilities for or parent-child contact with a child of a deploying parent shall be so identified at the time of filing by stating in the text of the pleading the specific facts related to deployment.

§ 687. DUTY TO COOPERATE AND DISCLOSE INFORMATION

(a) Because military necessity may preclude court adjudication before deployment, the parties shall cooperate with each other in an effort to reach a mutually agreeable resolution of parental rights and responsibilities, parent-child contact, and child support. Each party shall provide information to the other in an effort to facilitate agreement on these issues.

(b) Within 14 days of receiving notification of deployment or mobilization in the near future from his or her military leadership, the military parent shall provide written notice to the nondeploying parent of the same. If less than 14 days' notice is received by the military parent then notice must be given immediately upon receipt of notice to the nondeploying parent.

§ 688. FAILURE TO EXERCISE PARENT-CHILD CONTACT RIGHTS

In determining whether a parent has failed to exercise parent-child contact, the court shall not count any time periods during which the parent did not exercise such contact due to the material effect of that parent's military duties on the contact schedule.

§ 689. ATTORNEY FEES

In making determinations pursuant to this subchapter, the court may award attorney's fees and costs based on the court's consideration of:

(1) Unreasonable failure of either party to accommodate the other party in parental rights and responsibilities or parent-child contact matters related to a deploying parent. A parent's refusal to accommodate the other parent shall not be considered unreasonable if the parent demonstrates a reasonable fear for his or her safety or the safety of his or her child.

(2) Unreasonable delay caused by either party in resolving parental rights and responsibilities or parent-child contact related to a deploying parent.

(3) Failure of either party to provide timely information about income and earnings information to the other party.

(4) Other factors as the court may consider appropriate and as may be required by law.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

House Proposal of Amendment Concurred In

S. 163.

House proposal of amendment to Senate bill entitled:

An act relating to technical corrections to 2009 sex offender legislation.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Rule 15 of the Vermont Rules of Criminal Procedure is amended to read:

RULE 15. DEPOSITIONS

* * *

(f) Protection of Deponents.

(1) Deponent's Counsel and Victim Advocate. A deponent may have counsel present at the deposition and may make legal objections to questions. The deponent shall be treated as a party at hearings on motions pertaining to

the deposition. A victim of an alleged crime may have a victim advocate present during the deposition. The deponent may apply to the court for a protective order if the deponent believes that he or she is being subjected to harassment or intimidation. A subpoena issued pursuant to V.R.Cr.P. 17, or other notice of the deposition given to the deponent, shall include notice that the deponent may have the assistance of counsel and the victim advocate as provided herein and seek a protective order as provided in subdivision (f)(3).

(2) Depositions of Sensitive Witnesses. A person under the age of 16 or any person who is a victim in a prosecution under 13 V.S.A. § 2601 (lewd and lascivious conduct), 2602 (lewd and lascivious conduct with a minor), 3252 (sexual assault), or 3253 (aggravated sexual assault) shall be considered a sensitive witness. Prior to taking the deposition of a sensitive witness, the party seeking to take the deposition shall consult with the other parties and the deponent in an effort to reach an agreement on the time, place, manner, and scope of the taking of the deposition. If an agreement cannot be reached, the party seeking to take the deposition shall so advise the court and specify the matters which are in dispute. The court shall then issue an order regulating the taking of the deposition, including, in its discretion, a requirement that the deposition be taken in the presence of a judge or special master. The restrictions of 13 V.S.A. § 3255(a) shall apply to depositions. If a party taking a deposition proposes to ask about information that falls within 13 V.S.A. § 3255(a)(3)(A)–(C), the party shall notify the other parties and the deponent of this intent prior to seeking agreement on the scope of the deposition.

(3) Protective Orders. At the request of a party or deponent, and for good cause shown, the court may make any protective order which justice requires to protect a party or deponent from emotional harm, unnecessary annoyance, embarrassment, oppression, invasion of privacy, or undue burden of expense or waste of time. Such orders may include, among other remedies, the following: (1) that the deposition may be taken only on specified terms and conditions, including a designation of the time, place, and manner of taking the deposition; (2) that the deposition may be taken only by written questions; (3) that certain matters not be inquired into, or that the scope of the deposition be limited to certain matters; (4) that the deposition be conducted with only such persons present as the court may designate; (5) that after the deposition has been taken, the tape or transcription be sealed until further order of the court; (6) that the deposition not be taken. In ruling on such request, the court may consider, among other things, the age, health, level of intellectual functioning, and emotional condition of the witness, whether the witness has knowledge material to the proof of or defense to any essential element of the crime, whether the witness has provided a full written, taped, or transcribed

account of his or her proposed testimony at trial, whether the witness's testimony will relate only to a peripheral issue in the case, or whether an informal interview or telephone conference with the witness will suffice for the purposes of discovery in the case.

Sec. 2. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

(a) Notwithstanding sections 2056a-2056e of Title 20, the department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon their release from confinement:

* * *

(7) A person 18 years of age or older who resides in this state, other than in a correctional facility, and who is currently or, prior to taking up residence within this state was required to register as a sex offender in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court; except that, for purposes of this subdivision:

(A) conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the registry if the perpetrator is under the age of 18 and the victim is at least 12 years old; and

(B) information shall ~~only~~ be posted electronically only if the offense for which the person was required to register in the other jurisdiction was:

(i) a felony; or

(ii) a misdemeanor punishable by more than six months ~~or more~~ of imprisonment.

(b) The department shall electronically post the following information on sex offenders designated in subsection (a) of this section:

* * *

(13) if the offender has not been subject to a risk assessment, a statement that the offender has not been so assessed and that such a person is presumed to be high risk, provided that the department of corrections shall permit a person subject to this subdivision to obtain a risk assessment at the person's own expense.

* * *

Sec. 3. Sec. 14 of No. 58 of the Acts of 2009 is amended to read:

Sec. 14. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

(a) Notwithstanding sections 2056a-2056e of Title 20, the department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon their release from confinement:

* * *

(7) A person 18 years of age or older who resides in this state, other than in a correctional facility, and who is currently or, prior to taking up residence within this state was required to register as a sex offender in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court; except that, for purposes of this subdivision:

(A) conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the registry if the perpetrator is under the age of 18 and the victim is at least 12 years old; and

(B) information shall ~~only~~ be posted electronically only if the offense for which the person was required to register in the other jurisdiction was:

(i) a felony; or

(ii) a misdemeanor punishable by more than six months ~~or more~~ of imprisonment.

(b) The department shall electronically post the following information on sex offenders designated in subsection (a) of this section:

* * *

(13) if the offender has not been subject to a risk assessment, a statement that the offender has not been so assessed and that such a person is presumed to be high risk, provided that the department of corrections shall permit a person subject to this subdivision to obtain a risk assessment at the person's own expense.

* * *

Sec. 4. Sec. 11 of No. 58 of the Acts of 2009 is amended to read:

Sec. 11. APPLICABILITY

Secs. 6, 9, and 14 of this act (sex offender registry and Internet sex offender registry) shall apply only to the following persons:

(1) A person convicted prior to the effective date of this act who is under the supervision of the department of corrections except as provided in subdivision (3)(A) of this section.

(2) A person convicted on or after the effective date of this act.

(3)(A) A person convicted prior to the effective date of this act of a crime committed in this state, who is not under the supervision of the department of corrections and is subject to sex offender registry requirements under subchapter 3 of chapter 167 of Title 13~~,~~; or a person convicted prior to the effective date of this act of lewd or lascivious conduct with a child in violation of 13 V.S.A. § 2602 or a second or subsequent conviction for voyeurism in violation of 13 V.S.A. § 2605(b) or (c), who is under the supervision of the department of corrections, unless the sex offender review committee determines pursuant to the requirements of this subdivision (3), taking into account whether the person has been charged or convicted of a criminal offense or a probation or parole violation since being placed on the registry, that the person has successfully ~~re-integrated~~ reintegrated into the community.

(B)(i) No person's name shall be posted electronically pursuant to subdivision (3)(A) of this section before October 1, 2009.

(ii) On or before July 1, 2009, the department of public safety shall provide notice of the right to petition under this subdivision (3)(B) to all persons convicted prior to the effective date of this act who are not under the supervision of the department of corrections and are subject to sex offender registry requirements under subchapter 3 of chapter 167 of Title 13.

(iii) A person seeking a determination from the sex offender review committee that he or she is not subject to subdivision (3)(A) of this section shall file a petition with the committee before October 1, 2009. If a petition is filed before October 1, 2009, the petitioner's name shall not be posted electronically pursuant to subdivision (3)(A) of this section until after the sex offender review committee has ruled on the petition.

(C) All decisions made by the sex offender review committee under subdivision (3)(A) of this section shall be reviewed and approved by the commissioner of the department of corrections. The agency of human services

shall adopt emergency rules which establish criteria for the commissioner's decision.

(4)(A) A person convicted prior to July 1, 2009, of a crime committed in any jurisdiction of the United States other than Vermont, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court, who is not under the supervision of the department of corrections and is subject to sex offender registry requirements under subchapter 3 of chapter 167 of Title 13, unless the sex offender review committee determines pursuant to the requirements of this subdivision (4), taking into account whether the person has been charged or convicted of a criminal offense or a probation or parole violation since being placed on the registry, that the person has successfully reintegrated into the community.

(B)(i) No person's name shall be posted electronically pursuant to subdivision (4)(A) of this section before July 1, 2010.

(ii) On or before April 1, 2010, the department of public safety shall provide notice of the right to petition pursuant to this subdivision (4)(B) to all persons with a right to file a petition under subdivision (4)(A) of this section.

(iii) A person seeking a determination from the sex offender review committee that he or she is not subject to subdivision (4)(A) of this section shall file a petition with the committee before July 1, 2010. If a petition is filed before July 1, 2010, the petitioner's name shall not be posted electronically pursuant to subdivision (4)(A) of this section until after the sex offender review committee has ruled on the petition.

(iv) The petition shall be accompanied by available information regarding the nature and circumstances of the offense and sentence from the jurisdiction where the offense occurred. The committee may deny the petition if sufficient available information regarding the nature and circumstances of the offense and sentence are not provided within 90 days after the committee requests the information from the petitioner.

(C) All decisions made by the sex offender review committee under subdivision (4)(A) of this section shall be reviewed and approved by the commissioner of the department of corrections. The agency of human services shall adopt emergency rules which establish criteria for the commissioner's decision.

Sec. 5. EFFECTIVE DATE

(a) Sec. 1 of this act shall take effect on July 1, 2011.

(b) This section and Secs. 2, 3, and 4 of this act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Joint Resolution Adopted in Concurrence

J.R.H. 38.

Joint House resolution entitled:

Joint resolution relating to the use of the state house for the Green Mountain Boys' State Program.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

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, are hereby adopted in concurrence:

By Representative Haas,

H.C.R. 238.

House concurrent resolution recognizing the celebration in the town of Rochester of the Asian Lunar New Year 4708.

By Representative Edwards and others,

By Senators Doyle and Cummings,

H.C.R. 239.

House concurrent resolution recognizing the important role of nonprofit organizations in Vermont.

By Representative Olsen and others,

By Senators Shumlin and White,

H.C.R. 240.

House concurrent resolution congratulating the Leland & Gray Union High School 2009 Division III championship baseball team.

By All Members of the House,

By All Members of the Senate,

H.C.R. 241.

House concurrent resolution congratulating WCAX television news and reporter Kristin Carlson on receipt of a 2010 Alfred I. duPont-Columbia University Award.

By Representative Ram and others,

H.C.R. 242.

House concurrent resolution congratulating GospelFest on its 20th anniversary.

By Representative Koch and others,

H.C.R. 243.

House concurrent resolution congratulating the Green Mountain Council Boy Scout Eagle Class of 2009.

By Representative Fagan and others,

By Senators Ayer, Carris, Cummings, Flory, Giard, Hartwell, MacDonald and McCormack,

H.C.R. 244.

House concurrent resolution commemorating the Boy Scouts of America's centennial anniversary and the establishment of Boy Scouting in Vermont.

[The full text of the House concurrent resolutions appeared in the Senate calendar addendum for February 12, 2010, and, if adopted in concurrence by the House, will appear in the volume of the Public Acts and Resolves to be published for this session of the sixty-ninth biennial session of the Vermont General Assembly.]

Adjournment

On motion of Senator Mazza, the Senate adjourned until ten o'clock and twenty minutes in the forenoon on Thursday, February 18, 2010.