

Senate Calendar

TUESDAY, MARCH 08, 2011

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ORDERS OF THE DAY

ACTION CALENDAR

UNFINISHED BUSINESS OF FRIDAY, FEBRUARY 25, 2011

Third Reading

S. 48.

An act relating to prohibiting a sex offender from using a false name when creating a social networking website profile.

Second Reading

Favorable with Recommendation of Amendment

S. 58.

An act relating to jurisdiction of a crime committed when the defendant was under the age of 16.

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.

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. PURPOSE

The general assembly intends this act to clarify the authority of the state to institute criminal proceedings against an adult who committed a crime while a minor. Juvenile judicial proceedings are intended, among other things, to remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior and to provide supervision, care, and rehabilitation which assures balanced attention to the protection of the community, accountability to victims and the community for offenses, and the development of competencies to enable children to become responsible and productive members of the community. However, the general assembly never intended the juvenile procedures statutes to be used to permit a person who commits a crime to escape the consequences of that behavior simply by turning 18 before the state has filed charges against the person. This act clarifies, as the general assembly had always intended, that under the proper circumstances and for serious offenses, the state may bring charges against a person 18 years of age or older who committed a crime before turning 18.

Sec. 2. 33 V.S.A. § 5204a is amended to read:

§ 5204a. JURISDICTION OVER ADULT DEFENDANT FOR CRIME COMMITTED WHEN DEFENDANT WAS UNDER AGE 18

(a) A proceeding may be commenced in the family division against a defendant who has attained the age of 18 if:

(1) the petition alleges that the defendant, before attaining the age of 18, violated a crime listed in subsection 5204(a) of this title;

(2) a juvenile petition was never filed based upon the alleged conduct; and

(3) the statute of limitations has not tolled on the crime which the defendant is alleged to have committed.

(b)(1) The family division shall, except as provided in subdivision (2) of this subsection, transfer a petition filed pursuant to subsection (a) of this section to the criminal division if the family division finds that:

(A) there is probable cause to believe that while the defendant was less than 18 years of age he or she committed an act listed in subsection 5204(a) of this title;

(B) there was good cause for not filing a delinquency petition in the family division when the defendant was less than 18 years of age;

(C) there has not been an unreasonable delay in filing the petition; and

(D) transfer would be in the interest of justice and public safety.

(2)(A) The family division may order that the defendant be treated as a youthful offender consistent with the applicable provisions of subchapter 5 of chapter 52 of this title if the defendant is under 23 years of age and the family division:

(i) makes the findings required by subdivisions (1)(A), (B), and (C) of this subsection;

(ii) finds that the youth is amenable to treatment or rehabilitation as a youthful offender; and

(iii) finds that there are sufficient services in the family division system and the department for children and families or the department of corrections to meet the youth's treatment and rehabilitation needs.

(B) If the family division orders that the defendant be treated as a youthful offender, the court shall approve a disposition case plan and impose conditions of probation on the defendant.

(C) If the family division finds after hearing that the defendant has violated the terms of his or her probation, the family division may:

(i) maintain the defendant's status as a youthful offender, with modified conditions of probation if the court deems it appropriate; or

(ii) revoke the defendant's youthful offender status and transfer the petition to the criminal division pursuant to subdivision (1) of this subsection.

(3) In making the determination required by subdivision (1)(D) of this subsection, the court may consider, among other matters:

(A) The maturity of the defendant as determined by consideration of his or her age, home, environment; emotional, psychological, and physical maturity; and relationship with and adjustment to school and the community.

(B) The extent and nature of the defendant's prior criminal record and record of delinquency.

(C) The nature of past treatment efforts and the nature of the defendant's response to them.

(D) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

(E) The nature of any personal injuries resulting from or intended to be caused by the alleged act.

(F) Whether the protection of the community would be best served by transferring jurisdiction from the family division to the criminal division of the superior court.

(c) If the family division does not transfer the case to the criminal division or order that the defendant be treated as a youthful offender pursuant to subsection (b) of this section, the petition shall be dismissed.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

Joint Resolutions for Action

J.R.H. 11.

Joint resolution urging Congress to approve a streamlined sales tax agreement that will authorize the national collection of sales tax from online sales.

J.R.H. 12.

Joint resolution urging Congress to retain federal community services block grant funding for the balance of fiscal year 2011 at its current operating level.

CONCURRENT RESOLUTIONS FOR ACTION

H.C.R. 70-81 (For text of Resolutions, see Addendum to Senate Calendar for February 24, 2011)

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.

Kate Duffy of Williston – Commissioner of the Department of Human Resources– By Sen. Flory for the Committee on Government Operations. (1/25/11)

Jim Reardon of Essex Junction – Commissioner of the Department of Finance and Management – By Sen. White for the Committee on Government Operations. (1/28/11)

Chuck Ross of Hinesburg – Secretary of the Agency of Agriculture – By Sen. Kittell for the Committee on Agriculture. (1/28/11)

Robert D. Ide of Peacham – Commissioner of the Department of Motor Vehicles – By Sen. Kitchel for the Committee on Transportation. (1/28/11)

Jeb Spaulding of Montpelier – Secretary of the Agency of Administration – By Sen. Pollina for the Committee on Government Operations. (1/28/11)

Mary Peterson of Williston – Commissioner of the Department of Taxes – By Sen. Westman for the Committee on Finance. (1/28/11)

Steve Kimbell of Tunbridge – Commissioner of the Department of Banking, Insurance, Securities and Health Care Administration – By Sen. Cummings for the Committee on Finance. (1/28/11)

Brian Searles of Burlington – Secretary of the Agency of Transportation – By Sen. Mazza for the Committee on Transportation. (2/1/11)

Bruce Post of Essex Junction – Member of the Board of Libraries – By Sen.

Baruth for the Committee on Education. (2/4/11)

Jason Gibbs of Duxbury – Member of the Community High School of Vermont Board – By Sen. Doyle for the Committee on Education. (2/15/11)

John Fitzhugh of West Berlin – Member of the Board of Libraries – By Sen. Doyle for the Committee on Education. (2/15/11)

Susan Wehry of Burlington – Commissioner of the Department of Disabilities, Aging and Independent Living – By Sen. Pollina for the Committee on Health and Welfare. (2/15/11)

Dave Yacavone of Morrisville – Commissioner of the Department of Children and Families – By Sen. Fox for the Committee on Health and Welfare. (2/15/11)

Christine Oliver of Montpelier – Commissioner of the Department of Mental Health – By Sen. Mullin for the Committee on Health and Welfare. (2/15/11)

Doug Racine of Richmond – Secretary of the Agency of Human Services – By Sen. Ayer for the Committee on Health and Welfare. (2/15/11)

Michael Obuchowski of Montpelier – Commissioner of the Department of Buildings and General Services – By Sen. Hartwell for the Committee on Institutions. (2/17/11)

Susan Besio of Jericho – Commissioner of the Department of Vermont Health Access – By Sen. Miller for the Committee on Health and Welfare. (2/18/11)

Susan Besio of Jericho – Commissioner of the Department of Vermont Health Access – By Sen. Miller for the Committee on Health and Welfare. (2/18/11)

Harry Chen of Mendon – Commissioner of the Department of Health – By Sen. Mullin for the Committee on Health and Welfare. (2/18/11)

Andrew Pallito of Jericho – Commissioner of the Department of Corrections – By Sen. Hartwell for the Committee on Institutions. (2/18/11)

Keith Flynn of Derby Line – Commissioner of the Department of Public Safety – By Sen. Flory for the Committee on Transportation. (2/22/11)

Elizabeth Strano of Bennington – Member of the State Board of Education – By Sen. Baruth for the Committee on Education. (2/24/11)

Amy W. Grillo of Dummerston – Member of the Community High School of Vermont Board – By Sen. Baruth for the Committee on Education. (2/24/11)

PUBLIC HEARINGS
CROSSOVER DEADLINES

The following bill reporting deadlines are established for the 2011 session:

(1) From the standing committee of last reference (excluding the Committees on Appropriations and Finance), all Senate bills must be reported out of committee on or before March 11, 2011.

(2) Senate bills referred pursuant to Senate Rule 31, must be reported out of the Committees on Appropriations and Finance on or before March 18, 2011.

(3) These deadlines may be waived for any bill or committee **only** by consent given by the Committee on Rules.

Exceptions to the foregoing deadlines include the major money bills (Appropriations, Transportation, Capital, and Miscellaneous Taxes).

Wednesday, March 9, 2011 – Room 11 – 5:30-7:30 P.M. – Re: Gubernatorial appointment of the Commissioner of the Department of Education and the structure of the State Board of Education – House Committee on Education.

INFORMATION NOTICE

The following items were recently received by the Joint Fiscal Committee:

JFO #2488 — \$1,250,000 grant from the U.S. Department of Health and Human Services to the Vermont Department of Health. These funds will be used to establish evidence-based comprehensive sexuality education for high risk and vulnerable youth in Vermont. This grant is awarded under the Affordable Care Act. [*JFO received 2/14/11*]

JFO #2489 — \$2,803,443 grant from the U.S. Department of Health and Human Services to the Vermont Department of Children and Families. These funds will be used to implement the Learning Together Program, a parent training initiative for adolescent parents and parents-to-be. [*JFO received 2/14/11*]

JFO #2490 — \$48,505 grant from the U.S. Department of Agriculture to the Vermont Department Education. These funds will be used to provide grants to low-income designated schools for investment in their food service programs. [*JFO received 2/14/11*]

JFO #2491 — \$33,393,402 grant from the U.S. Department of Commerce to the Vermont Telecommunications Authority (VTA). These

funds will be used to construct an approximately 770 mile fiber optic communications network designed to provide high-capacity connections to specific community anchor institutions. This grant is awarded under the American Recovery and Reinvestment Act. [*JFO received 2/23/11*]

JFO #2492 — \$1,527,630 grant from the Federal Emergency Management Agency (FEMA) to the Vermont Agency of Transportation. These funds will be used to provide disaster assistance for damages to public facilities (state, local, non-profit) in Chittenden, Franklin, and Lamoille counties caused by the December 1, 2010 storm. [*JFO received 2/23/11*]