

Journal of the Senate

WEDNESDAY, MARCH 9, 2011

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bill Introduced

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

S. 89.

By Senator Sears,

An act relating to Medicaid for Working Persons with Disabilities.

To the Committee on Health and Welfare.

Bills Referred

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

H. 275.

An act relating to the recently deployed veteran tax credit.

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

H. 299.

An act relating to repealing the provision that some school district budgets be presented to the voters by means of a divided question.

To the Committee on Education.

Senate Resolution Adopted

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

By the Committee on Transportation,

S.R. 7. Senate resolution thanking the Vermont agency of transportation maintenance district crews for their exemplary response to the extraordinary road-clearing challenges of the 2010–2011 winter season.

Whereas, agency of transportation highway crews will vividly recollect the challenging winter of 2011 when plowing the state’s highways seemed to be a 24-hour-a-day occupation, and

Whereas, after the crews had barely completed the exhausting work of clearing the snowy debris from one storm and had secured the plows at their respective garages, a new weather forecast would announce the imminent arrival of still another wintry day or night of massive precipitation, and

Whereas, even if agency of transportation work crews were still recovering from their last foray into the cold and windy Vermont weather, the fortitude and skill they displayed were always exemplary as the crews continually performed their jobs competently, efficiently, and in a reliable and timely manner, and

Whereas, the need to respond immediately to the strong storms of the 2011 winter season placed an extraordinary work demand on the maintenance district crews, and their efforts are often taken for granted, and

Whereas, their responses that were beyond the call of duty merit an expression of sincere thanks and appreciation from the general assembly, *now therefore be it*

Resolved by the Senate:

That the Senate of the State of Vermont thanks the Vermont agency of transportation maintenance district crews for their exemplary response to the extraordinary road-clearing challenges during the 2010–2011 winter season, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to each agency of transportation maintenance district.

Joint Senate 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 Senators Carris and Mullin,

J.R.S. 21. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 11, 2011, it be to meet again no later than Tuesday, March 15, 2011.

Bill Amended; Third Reading Ordered

S. 58.

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

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

Reported recommending 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. 3. 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.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 20.

Joint Senate resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of a Chief Justice and four Justices of the Supreme Court, three Judges of the Superior Court, and seven Judges of the District Court.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

Rules Suspended; Resolution Messaged

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

J.R.S. 20.

Adjournment

On motion of Senator Mazza, the Senate adjourned until eleven o'clock and thirty minutes in the forenoon on Friday, March 11, 2011.