

Journal of the Senate

WEDNESDAY, MARCH 16, 2011

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 31

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 passed House bills of the following titles:

H. 79. An act relating to uniform adult guardianship and protective proceedings jurisdiction.

H. 426. An act relating to extending the state's reporting concerning transportation of children in state custody and transportation of individuals in the custody of the commissioner of mental health.

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

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

J.R.S. 20. 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.

And has adopted the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

Message from the House No. 32

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 passed a House bill of the following title:

H. 428. An act relating to requiring supervisory unions to perform common duties.

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

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

J.R.S. 22. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bill Referred to Committee on Finance

S. 94.

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to miscellaneous amendments to the motor vehicle laws.

Rules Suspended; Bill Committed

S. 53.

Senate bill entitled:

An act relating to the number of prekindergarten children included within a school district's average daily membership.

Was taken up.

Thereupon, pending the reading of the report of the Committee on Education, Senator Kitchel moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the reports of the Committees on Education and Finance *intact*,

Which was agreed to.

Bills Referred

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

H. 79.

An act relating to uniform adult guardianship and protective proceedings jurisdiction.

To the Committee on Judiciary.

H. 426.

An act relating to extending the state's reporting concerning transportation of children in state custody and transportation of individuals in the custody of the commissioner of mental health.

To the Committee on Health and Welfare.

H. 428.

An act relating to requiring supervisory unions to perform common duties.

To the Committee on Education.

Bill Amended; Third Reading Ordered**S. 30.**

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

An act relating to enhancing the penalty for assault of a nurse.

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. § 1028 is amended to read:

§ 1028. ASSAULT OF LAW ENFORCEMENT OFFICER, FIREFIGHTER, ~~EMERGENCY ROOM PERSONNEL, OR EMERGENCY MEDICAL PERSONNEL MEMBER, OR HEALTH CARE WORKER~~; ASSAULT WITH BODILY FLUIDS

(a) A person convicted of a simple or aggravated assault against a law enforcement officer, a firefighter, emergency room personnel, an employee of a health care facility as defined in 18 V.S.A. § 9432(8) who provides direct care to patients or who is part of a team-response to a patient or visitor incident involving real or potential violence, or a member of emergency services personnel as defined in ~~subdivision~~ 24 V.S.A. § 2651(6) while the officer, firefighter, health care worker, employee, or emergency medical personnel member is performing a lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:

(1) For the first offense, be imprisoned not more than one year;

(2) For the second offense and subsequent offenses, be imprisoned not more than ten years.

(b)(1) No person shall intentionally cause blood, vomitus, excrement, mucus, saliva, semen, or urine to come in contact with a ~~law enforcement~~

officer person designated in subsection (a) of this section while the officer person is performing a lawful duty.

(2) A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

Sec. 2. LAW ENFORCEMENT ADVISORY BOARD

The law enforcement advisory board shall adopt a model policy to address enforcement of the criminal code as it relates to an assault of a health care worker while he or she is engaged in his or her official duties providing patient care.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

After passage, the title of the bill is to be amended to read:

An act relating to assault of a health care worker.

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.

Consideration Resumed; Bill Amended; Third Reading Ordered

S. 67.

Consideration was resumed on Senate bill entitled:

An act relating to the open meeting law.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations? Senator Flory, on behalf of the Committee on Government Operations moved to amend the recommendation of amendment of the Committee on Government Operations as follows:

First: In Sec. 1, 1 V.S.A. § 310, by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) "Meeting" means a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action. "Meeting" shall not mean written correspondence or an electronic communication, including e-mail, telephone, or teleconferencing, between members of a public body for the purpose of scheduling a meeting, organizing an agenda, or distributing materials to

discuss at a meeting, provided that such a written correspondence or such an electronic communication that results in written or recorded information shall be available for inspection and copying under the public records act as set forth in chapter 5, subchapter 4 of this title.

Second: In Sec. 4, 1 V.S.A. § 314(c), by striking out subdivision (4) in its entirety and inserting in lieu a new subdivision (4) to read as follows:

(4) A public body that cures an alleged violation of this subchapter under this subsection shall not be subject to an assessment of attorney's fees and litigation costs under subsection (d) of this section.

Third: In Sec. 4, 1 V.S.A. § 314, by striking out subdivision (d)(1) in its entirety and inserting in lieu thereof a new subdivision (d)(1) to read as follows:

(1) The public body had a reasonable basis in fact and law for its position; and

Which was agreed to.

Thereupon, the recurring question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, was agreed to and third reading of the bill was ordered.

Bill Passed

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

S. 16. An act relating to confidentiality of cases accepted by the court diversion project.

Adjournment

On motion of Senator Campbell, the Senate adjourned until eleven o'clock and thirty minutes in the morning.