Senate Calendar

WEDNESDAY, MARCH 12, 2014

SENATE CONVENES AT: 1:30 P.M.

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CONSIDERATION POSTPONED TO MARCH 13, 2014

Second Reading

Favorable with Recommendation of Amendment

S. 91.

An act relating to public funding of some approved independent schools.

Reported favorably with recommendation of amendment by Senator Zuckerman for the Committee on Education.

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. PRIVATIZATION OF PUBLIC SCHOOLS; MORATORIUM; REPEAL

(a) Privatization of public school. Notwithstanding the authority of a school district to cease operating an elementary or secondary school and to begin paying tuition on behalf of its resident students, a school district shall not cease operation of a school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an approved independent school serving essentially the same population of students.

(b) State Board approval. The State Board of Education shall not approve an independent school under 16 V.S.A. § 166 if, on or after the effective date of this act, a school district votes to cease operating a school that at the time of the vote serves essentially the same population of students as the independent school proposes to serve and is located in the building or buildings in which the independent school proposes to operate.

(c) Publicly funded tuition. An approved independent school shall not be eligible to receive publicly funded tuition dollars if, on or after the effective date of this act, a school district votes to cease operating a school that at the time of the vote serves essentially the same population of students as the independent school proposes to serve and is located in the building or buildings in which the independent school proposes to operate.

(d) Repeal. This section is repealed on July 1, 2016.

Sec. 2. SECRETARY OF EDUCATION; PRIVATIZATION STUDY; REPORT

(a) The Secretary of Education shall research the constitutional and other legal consequences of a school district's decision to cease operating a school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an approved independent school serving essentially the same population of students. Among other issues, the Secretary shall examine federal civil rights law and the Vermont Supreme Court's decision in *Brigham v. State* and shall consider issues of delegation of authority and the proper use of State funds.

(b) On or before January 15, 2015, the Secretary shall report the results of the research required by this section to the Senate and House Committees on Education, together with any recommendations for legislative amendments.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to privatization of public schools".

(Committee vote: 5-0-0)

UNFINISHED BUSINESS OF TUESDAY, MARCH 11, 2014

Third Reading

S. 269.

An act relating to business consumer protection and data security breaches.

Resolution for Action

J.R.S. 47.

Joint resolution relating to the approval of State land transactions.

PENDING ACTION: Shall the Resolution be adopted?

(For text of resolution, see Senate Journal of February 28, 2014, page 302.)

Amendment to be offered by Senator Rodgers

Senator Rodgers moves that the Resolution be amended in the first Resolved clause, in subdivision (1), second sentence, after the words "forest management" by inserting the words and seasonal recreational

NEW BUSINESS

Third Reading

S. 237.

An act relating to civil forfeiture proceedings in cases of animal cruelty.

S. 264.

An act relating to technical corrections to civil and criminal procedure statutes.

Second Reading

Favorable with Recommendation of Amendment

S. 234.

An act relating to Medicaid coverage for home telemonitoring services.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health and Welfare.

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. 33 V.S.A. § 1901g is added to read:

§ 1901g. MEDICAID COVERAGE FOR HOME TELEMONITORING SERVICES

(a) The Agency of Human Service shall provide Medicaid coverage for home telemonitoring services performed by home health agencies for Medicaid beneficiaries who have serious or chronic medical conditions that can result in frequent or recurrent hospitalizations and emergency room admissions. The Agency shall use evidence-based best practices to determine the conditions or risk factors to be covered.

(b) A home health agency shall ensure that clinical information gathered by the home health agency while providing home telemonitoring services is shared with the patient's treating health care professionals. The Agency of Human Services may impose other reasonable requirements on the use of home telemonitoring services.

(c) As used in this section:

(1) "Home health agency" means an entity that has received a certificate of need from the State to provide home health services and is certified to provide services pursuant to 42 U.S.C. § 1395x(o).

(2) "Home telemonitoring service" means a health service that requires scheduled remote monitoring of data related to a patient's health, in conjunction with a home health plan of care, and access to the data by a home health agency.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 5-0-0)

S. 295.

An act relating to pretrial services, risk assessments, and criminal justice programs.

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:

* * * Pretrial Services* * *

Sec. 1. LEGISLATIVE FINDINGS

(a) Research shows the risk-need-responsivity model approach to addressing criminal conduct is successful at reducing recidivism. The model's premise is that the risk and needs of a person charged with or convicted of a criminal offense should determine the strategies appropriate for addressing the person's criminogenic factors.

(b) Some studies show that incarceration of low-risk offenders or placement of those offenders in programs or supervision designed for high-risk offenders may increase the likelihood of recidivism.

(c) The General Assembly recommends use of evidence-based risk assessments and needs screening tools for eligible offenses to provide information to the Court for the purpose of determining bail and appropriate conditions of release and inform decisions related to an offender's participation and level of supervision in an alternative justice program.

Sec. 2. 13 V.S.A. § 7554c is added to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

(a) The objective of a pretrial risk assessment is to provide information to the Court for the purpose of determining whether a person presents a risk of nonappearance or a threat to public safety, so the Court can make an appropriate order concerning bail and conditions of pretrial release. Participation in a risk assessment or needs screening pursuant to this section does not create any entitlement for the assessed or screened person.

(b)(1) If a person is arrested or cited for an eligible offense, the person shall be offered a risk assessment and, if appropriate, a substance abuse or mental health needs screening, or both, prior to arraignment. In the event an assessment or screening cannot be obtained prior to arraignment, the Court shall direct the assessment and screening to be conducted as soon as practicable. Participation in an assessment or screening shall be voluntary. As used in this section, "eligible offense" means any offense that is not a listed

crime pursuant to section 5301 of this title, except that burglary into an occupied dwelling pursuant to subdivision 1201(c)(3) of this title shall also qualify as an eligible offense.

(2) Any person arrested and charged with an offense that is not an eligible offense or an offense for which bail may be denied pursuant to section 7553 or 7553a of this title may be offered a risk assessment and, if appropriate, a substance abuse or mental health needs screening, or both, prior to arraignment. In the event an assessment or screening cannot be obtained prior to arraignment, the Court shall direct the assessment and screening to be conducted as soon as practicable. Participation in an assessment or screening shall be voluntary.

(c) The results of the assessment and screening shall be provided to the prosecutor who, upon filing a criminal charge against the person, shall provide the results to the person and his or her attorney and the Court.

(d)(1) In consideration of the assessment and screening, the Court may order the person to comply with any of the following conditions:

(A) meet with a compliance monitor on a schedule set by the Court;

(B) participate in a clinical assessment by a substance abuse treatment provider;

(C) comply with any treatment recommended by the provider;

(D) provide confirmation to the compliance monitor of the person's attendance and participation in the clinical assessment and any recommended treatment; and

(E) provide confirmation to the compliance monitor of the person's compliance with any other condition of release.

(2) If possible, the Court shall set the date and time for the assessment at arraignment. In the alternative, the compliance monitor shall coordinate the date, time, and location of the clinical assessment and advise the Court, the person and his or her attorney, and the prosecutor.

(3) The conditions authorized in subdivision (1) of this subsection shall be in addition to any other conditions of release permitted by law.

(e) Information obtained from the person during the risk assessment or needs screening shall be exempt from public inspection and copying under the Public Records Act and shall not be released or used for any purpose except for determining bail, conditions of release, and appropriate programming for the person in the pending case. The person shall retain all of his or her due process rights throughout the assessment and screening process and may

release his or her records at his or her discretion. The Vermont Supreme Court and the Department of Corrections shall adopt rules related to the custody, control, and preservation of information consistent with the confidentiality requirements of this section.

Sec. 3. RISK AND NEEDS SCREENING TOOLS AND SERVICES

(a) The Department of Corrections shall select risk and needs assessment and screening tools for use in the various decision points in the criminal justice system, including pretrial, community supervision screening, community supervision, prison screening, prison intake, and reentry. The Department shall validate the selected tools for the population in Vermont.

(b) In selection and implementation of the tools, the Department shall consider tools being used in other states and shall consult with and have the cooperation of all criminal justice agencies.

(c) The Department shall have the tools available for use on or before September 1, 2014. The Department, the Judiciary, the Defender General, and the Department of State's Attorneys and Sheriffs shall conduct training on the risk assessment tools on or before December 15, 2014.

(d) The Department, in consultation with law enforcement agencies and the courts, shall contract for or otherwise provide pretrial services described in this section, including performance of risk assessments, needs screenings, and compliance monitoring.

(e) Compliance monitoring shall include:

(1) reporting to the Court concerning the person's compliance with conditions of release;

(2) supporting the person in meeting the conditions imposed by the Court, including the condition to appear in Court as directed; and

(3) identifying community-based treatment, rehabilitative services, and restorative justice programs.

(f) The Department, in consultation with the Judiciary and the Center for Criminal Justice Research, shall develop and implement a system to evaluate performance of the pretrial services described in this section and report to the General Assembly annually on or before December 15.

* * * Sequential Intercept Model and Alternative Justice Programs * * *

Sec. 4. ALTERNATIVES TO TRADITIONAL CRIMINAL JUSTICE MODEL

(a) It is the intent of the General Assembly that law enforcement officials and criminal justice professionals develop and maintain programs at every stage of the criminal justice system to provide alternatives to a traditional punitive criminal justice response for people who, consistent with public safety, can effectively and justly benefit from those alternative responses. Commonly referred to as the sequential intercept model, this approach was designed to identify five points within the criminal justice system where innovative approaches to offenders and offending behavior could be taken to divert individuals away from a traditional criminal justice response to crime. These intercept points begin in the community with law enforcement interaction with citizens, proceed through arrest, the judicial process, and sentencing, and conclude with release back into communities. Alternative justice programs may include the employment of police-social workers, community-based restorative justice programs, community-based dispute resolution, pre-charge programs, pretrial services and case management, drug and DUI treatment courts, suspended fine programs, and offender reentry programs.

(b) The Department of State's Attorneys and Sheriffs, in consultation with the Judiciary and the Attorney General, shall develop broad guidelines for these alternative justice programs to ensure there is probable cause and that there are appropriate opportunities for victim input and restitution.

(c) On or before October 1, 2014, and annually thereafter, the Executive Director of State's Attorneys and Sheriffs shall report to the General Assembly detailing the alternative justice programs that exist in each county together with the protocols for each program, the annual number of persons served by the program, and a plan for how a sequential intercept model can be employed in the county. The report shall be prepared in cooperation with the Directors of Court Diversion, co-chairs of the Community Justice Network of Vermont, and State, municipal, and county law enforcement officials.

Sec. 5. 13 V.S.A. § 7554d is added to read:

§ 7554d. PRE-CHARGE PROGRAMS

(a) At the sole discretion of the prosecutor, a person who has been arrested or cited may participate in a pre-charge program that addresses substance abuse, mental health issues, or community-based restorative justice principles consistent with a written protocol established by the prosecutor and filed with

the Executive Director of State's Attorneys and Sheriffs. A person who does not qualify for a pre-charge program may be eligible for other alternative justice programs.

(b) Compliance monitors shall be available and utilized in the pre-charge program in the same manner as under section 7554c of this title; however, in the pre-charge program, the monitor shall report to the prosecutor about the person's participation in the program and not to the Court.

Sec. 6. 13 V.S.A. § 5362(c) is amended to read:

(c) The Restitution Unit shall have the authority to:

* * *

(7) Enter into a repayment contract with a juvenile or adult accepted into a diversion program or alternative justice program and to bring a civil action to enforce the contract when a diversion program has referred an individual pursuant to 3 V.S.A. § 164a or an alternative justice program contract pursuant to sections 7554c and 7554d of this title.

Sec. 7. 13 V.S.A. § 5363(d)(2) is amended to read:

(2) The Restitution Unit may make advances of up to $10,000.00 under this subsection to the following persons or entities:

* * *

(B) A victim who is a natural person or the natural person's legal representative in a case where the defendant, before or after an adjudication of guilt, enters into a drug court contract or an alternative justice program contract pursuant to sections 7554c and 7554d of this title requiring payment of restitution.

* * * Criminal Provisions * * *

Sec. 8. 18 V.S.A. § 4233(d) is added to read:

(d) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting heroin into Vermont with the intent to sell or dispense the heroin shall be imprisoned not more than 10 years or fined not more than $100,000.00, or both.

Sec. 9. 13 V.S.A. § 1201 is amended to read:

§ 1201. BURGLARY

(a) A person is guilty of burglary if he or she enters any building or structure knowing that he or she is not licensed or privileged to do so, with the intent to commit a felony, petit larceny, simple assault, or unlawful mischief.

This provision shall not apply to a licensed or privileged entry, or to an entry that takes place while the premises are open to the public, unless the person, with the intent to commit a crime specified in this subsection, surreptitiously remains in the building or structure after the license or privilege expires or after the premises no longer are open to the public.

(b) As used in this section~~, the words "building," "structure," and "premises"~~:

(1) "Building," "premises," and "structure" shall, in addition to their common meanings, include and mean any portion of a building, structure, or premises which differs from one or more other portions of such building, structure, or premises with respect to license or privilege to enter, or to being open to the public.

(2) "Occupied dwelling" means a building used as a residence, regardless of whether someone is actually present in the building at the time of entry.

(c)(1) A ~~person convicted of burglary into an occupied dwelling shall be imprisoned not more than 25 years or fined not more than $1,000.00, or both. Otherwise a~~ person convicted of burglary shall be imprisoned not more than 15 years or fined not more than $1,000.00, or both.

(2) A person convicted of burglary and who carries a dangerous or deadly weapon, openly or concealed, shall be imprisoned not more than 20 years or fined not more than $10,000.00, or both.

(3) A person convicted of burglary into an occupied dwelling:

(A) shall be imprisoned not more than 25 years or fined not more than $1,000.00, or both; or

(B) shall be imprisoned not more than 30 years or fined not more than $10,000.00, or both, if the person carried a dangerous or deadly weapon, openly or concealed, during commission of the offense.

(4) A person convicted of burglary into an occupied dwelling when someone is actually present in the building at the time of entry and who carries a dangerous or deadly weapon, openly or concealed, or who uses or threatens to use force against the occupant during the commission of the offense shall be imprisoned not more than 40 years or fined not more than $10,000.00, or both.

Sec. 10. DEPARTMENT OF PUBLIC SAFETY REPORT

The Department of Public Safety, in consultation with the Department of Health, shall examine 18 V.S.A. § 4234 (depressant, stimulant, narcotic drug) for the purpose of establishing clear dosage amounts for narcotics as they

relate to unlawful possession, dispensing, and sale. The Department shall consider section 4234 in relation to 18 V.S.A. § 4233 (heroin). The Department shall report its recommendations to the Senate and House Committees on Judiciary on or before December 15, 2014.

* * * Regulation of Opiates * * *

Sec. 11. 18 V.S.A. § 4215 is amended to read:

§ 4215. AUTHORIZED SALES BY PHARMACISTS

(a) ~~A~~ Except as provided in subsection (d) of this section, a duly licensed pharmacist, in good faith and in the course of professional practice, may sell and dispense regulated drugs to any person upon a written prescription or oral prescription which is reduced promptly to writing by the pharmacist by an individual authorized by law to prescribe and administer prescription drugs in the course of professional practice. The written prescription shall be dated and signed by the person prescribing or, if an oral prescription by the pharmacist on the day when written, and bearing the full name and date of birth of the patient for whom the drug is prescribed, and the full name of the person prescribing. If the prescription is for an animal, the prescription shall state the species of animal for which the drug is prescribed and the full name and address of the owner of the animal. A prescription shall not be refilled unless refilling is authorized by the practitioner on the original prescription or by the original oral order.

* * *

(d) A pharmacist may only fill a prescription for a drug containing buprenorphine if the prescription was written by a health care professional on a list of approved prescribers of the drug established and maintained by the Department of Health pursuant to section 4215c of this title.

Sec. 12. 18 V.S.A. § 4215c is added to read:

§ 4215c. APPROVED PRESCRIBERS OF BUPRENORPHINE

(a) The Commissioner of Health shall establish and maintain a list of approved prescribers of buprenorphine and drugs containing buprenorphine. The list shall consist of the names of physicians licensed within and outside the State who wish to prescribe buprenorphine to Vermont residents and meet all of the following conditions:

(1) have received a waiver from the federal Substance Abuse and Mental Health Services Administration to provide medication-assisted therapy;

(2) have a special identification number from the federal Drug Enforcement Administration allowing the physician to prescribe buprenorphine; and

(3) meet such other standards and conditions as the Commissioner may establish by rule.

(b)(1) A physician who wishes to be included in the list of approved prescribers shall notify the Commissioner in writing of his or her intent and shall submit documentation that the physician meets the conditions specified in subsection (a) of this section.

(2) The Commissioner shall remove from the list any physician who fails to comply with the conditions specified in subsection (a) of this section.

(3) The Commissioner shall establish by rule a process by which a physician may appeal a decision by the Commissioner to exclude the physician from the approved prescriber list or to remove the physician's name from the list.

Sec. 13. VPMS QUERY; MEDICAID PARTICIPATION; RULEMAKING

The Secretary of Human Services shall adopt rules requiring all Medicaid participating providers, whether licensed in or outside Vermont, to query the Vermont Prescription Monitoring System (VPMS) prior to prescribing buprenorphine or a drug containing buprenorphine to a Vermont Medicaid beneficiary.

Sec. 14. MEDICATION-ASSISTED THERAPY; RULEMAKING

The Commissioner of Health shall adopt rules relating to medication-assisted therapy for opioid dependence for physicians treating fewer than 30 patients, which shall include a requirement that such physicians ensure that their patients receive appropriate substance abuse counseling from a licensed clinical professional.

Sec. 15. TAMPER-RESISTANT PACKAGING; INTENT

It is the intent of the General Assembly to encourage manufacturers of products containing buprenorphine to develop tamper-resistant packaging for their products and to endeavor to create products that are effective for medication-assisted therapy but do not lend themselves easily to diversion.

Sec. 16. PHARMACY BEST PRACTICES AND COST CONTAINMENT; TABLETS AND BLISTER PACKS

The Commissioner of Vermont Health Access shall undertake all reasonable efforts, including negotiating with pharmaceutical manufacturers through the pharmacy best practices and cost containment program established

by 33 V.S.A. § 1998, to increase the availability and reduce the cost to the State's public health benefit programs and program participants of prescribed products containing buprenorphine in tablet form to be dispensed in blister packs.

Sec. 17. 18 V.S.A. § 4254 is amended to read:

§ 4254. IMMUNITY FROM LIABILITY

* * *

(b) A person who, in good faith and in a timely manner, seeks medical assistance for someone who is experiencing a drug overdose shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under ~~age~~ 21 years of age pursuant to 7 V.S.A §§ 656 and 657 or for providing to or enabling consumption of alcohol by someone under ~~age~~ 21 years of age pursuant to 7 V.S.A. § 658(a)-(c).

(c) A person who is experiencing a drug overdose and, in good faith, seeks medical assistance for himself or herself or is the subject of a good faith request for medical assistance shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under ~~age~~ 21 years of age pursuant to 7 V.S.A. §§ 656 and 657 or for providing to or enabling consumption of alcohol by someone under ~~age~~ 21 years of age pursuant to 7 V.S.A. § 658(a)-(c).

* * *

(e) A person who seeks medical assistance for a drug overdose for another or for himself or herself pursuant to subsection (b) or (c) of this section shall not be subject to any sanction for a violation of a condition of pretrial release, probation, furlough, or parole for a violation of this chapter or 7 V.S.A §§ 656 and 657, for being at the scene of the drug overdose, or for being within close proximity to any person at the scene of the drug overdose.

Sec. 18. EFFECTIVE DATES

(a) Secs. 2, 5, 6, and 7 shall take effect on January 1, 2015.

(b) This section and Secs. 1 (legislative intent), 3 (risk assessment and needs screening tools), 4 (alternatives to traditional criminal justice model), 10 (Department of Public Safety report), 12 (approved prescribers of buprenorphine), 13 (VPMS query; rulemaking), 14 (medication assisted therapy, rulemaking), 15 (tamper-resistant packing), 16 (buprenorphine tablets and blister packs), and 17 (immunity from liability) shall take effect on passage.

(c) The remaining sections shall take effect on July 1, 2014.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Health and Welfare.

The Committee recommends that the bill be amended as recommended by the Committee on Judiciary, with the following amendments thereto:

First: In Sec. 1, Legislative Findings, by adding a new subsection (d) to read as follows:

(d) The General Assembly intends this act to be a continuation of justice reinvestment efforts initiated in 2007 by the Legislative, Judicial, and Executive Branches. Justice reinvestment is a data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and strengthen communities.

Second: In Sec. 2, 13 V.S.A. § 7554c, subdivision (d)(1) by striking out subparagraph (C) in its entirety and inserting in lieu thereof a new subparagraph (C) to read as follows:

(C) comply with any level of treatment or recovery support recommended by the provider;

Third: In Sec. 3, (risk and needs screening tools and services) subsection (e) subdivision (3), after "rehabilitative services," by inserting recovery supports,

and by adding a new subsection (g) to read as follows:

(g) The Secretary of Human Services, with staff and administrative support from the Criminal Justice Capable Core Team, shall map services and assess the impact of court referrals and the capacity of the current service provision system in each region. The Secretary, in collaboration with service providers and other stakeholders, shall consider regional resources, including services for assessment, early intervention, treatment, and recovery support. Building on existing models and data, the Secretary and the Criminal Justice Capable Core Team shall develop recommendations for a system for referral based on the appropriate level of need, identifying existing gaps to optimize successful outcomes. Funding models for those services shall be examined by the appropriate State departments.

Fourth: In Sec. 4, (alternatives to traditional criminal justice model) subsection (a), in the last sentence, after "pretrial services and case management," by inserting recovery support,

Fifth: In Sec. 5, 13 V.S.A. § 7554d, subsection (a), in the first sentence, after "substance abuse," by inserting addiction recovery,

Sixth: By striking out Sec. 11, 18 V.S.A. § 4215, in its entirety and inserting in lieu thereof a new Sec. 11 to read:

Sec. 11. DVHA AUTHORITY; USE OF AVAILABLE SANCTIONS

The Department of Vermont Health Access shall use its authority to sanction Medicaid-participating prescribers operating in bad faith or not in compliance with State or federal requirements.

Seventh: By striking out Sec. 12, 18 V.S.A. § 4215c, in its entirety.

Eighth: By striking out Secs. 15 and 16, tamper-resistant packaging and pharmacy best practices and cost containment, in their entirety.

Ninth: By striking out Sec. 17 in its entirety and inserting in lieu thereof a new Sec. 17 to read:

Sec. 17. 18 V.S.A. § 4254 is amended to read:

§ 4254. IMMUNITY FROM LIABILITY

* * *

(d) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any of the penalties for violation of 13 V.S.A. § 1030 (violation of a protection order), for a violation of this chapter or 7 V.S.A §§ 656 and 657, for being at the scene of the drug overdose, or for being within close proximity to any person at the scene of the drug overdose.

(e) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any sanction for a violation of a condition of pretrial release, probation, furlough, or parole for a violation of this chapter or 7 V.S.A §§ 656 and 657, for being at the scene of the drug overdose, or for being within close proximity to any person at the scene of the drug overdose.

* * *

Tenth: In Sec. 18, effective dates, in subsection (b), by striking out "12 (approved prescribers of buprenorphine)," and "15 (tamper-resistant packing), 16 (buprenorphine tablets and blister packs),"

(Committee vote: 5-0-0)

NOTICE CALENDAR

Second Reading

Favorable

H. 640.

An act relating to technical corrections.

Reported favorably by Senator White for the Committee on Government Operations.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 13, 2014, pages 427-432.)

Favorable with Proposal of Amendment

H. 702.

An act relating to self-generation and net metering.

Reported favorably with recommendation of proposal of amendment by Senator Lyons for the Committee on Finance.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 30 V.S.A. § 219a, in subdivision (e)(3) (excess generation; single nondemand meter), by striking out subdivision (A) and inserting in lieu thereof a new subdivision (A) to read:

(A) The electric company shall calculate a monetary credit to the customer by multiplying the excess kWh generated during the billing period by the kWh rate paid by the customer for electricity supplied by the company and shall apply the credit to any remaining charges on the customer's bill for that period~~;~~. If the applicable rate schedule includes inclining block rates**:**

(i) for a net metering system that does not use solar energy, the rate used for this calculation shall be a blend of those rates determined by adding together all of the revenues to the company during a recent test year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during that same year**;** and

(ii) for a solar net metering system, the rate used for this calculation:

(I) during the ten years immediately following the system's installation shall be the highest of those block rates and, after this ten-year

period, shall be the blended rate in accordance with subdivision (i) of this subdivision (A); or

(II) if the electric company's highest block rate exceeds the adder sum described in subdivision (h)(1)(K) of this section, then for the first year immediately following the system's installation, the electric company may use the adder sum to calculate the credit in lieu of the highest block rate, provided that during the following nine years, the electric company shall adjust the system's credit by a percentage equal to the percentage of each change in its highest block rate during the same period, and after the first ten years following the system's installation, the rate used to calculate the credit shall be the blended rate in accordance with subdivision (i) of this subdivision (A).

Second: In Sec. 1, 30 V.S.A. § 219a, in subsection (e) (electric energy measurement), by striking out subdivision (4) (excess generation; demand meter or time-of-use meter) and inserting in lieu thereof a new subdivision (4) to read:

(4) For a net metering system serving a customer on a demand or time-of-use rate schedule, the manner of measurement and the application of bill credits for the electric energy produced or consumed shall be substantially similar to that specified in this subsection for use with a single nondemand meter. However, if such a net metering system is interconnected directly to the electric company through a separate meter whose primary purpose is to measure the energy generated by the system:

(A) The bill credits shall apply to all kWh generated by the net metering system and shall be calculated as if the customer were charged the kWh rate component of the interconnecting company's general residential rate schedule that consists of two rate components: a service charge and a kWh rate, excluding time-of-use rates and demand rates.

(B) If a company's general residential rate schedule includes inclining block rates, the residential rate used for this calculation shall be ~~the highest of those block rates~~ a rate calculated in the same manner as under subdivision (3)(A) of this subsection (e).

Third: In Sec. 1, 30 V.S.A. § 219a, in subdivision (h)(1)(K)(i) (solar incentive calculation), by striking out subdivision (III) (inclining block rates) and inserting in lieu thereof a new subdivision (III) to read:

(III) If a company's general residential rate schedule includes inclining block rates, the residential rate shall be the highest of those block rates.

Fourth: In Sec. 1, 30 V.S.A. § 219a, by striking out subsection (m) and inserting in lieu thereof a new subsection (m) to read:

(m)(1) A facility for the generation of electricity to be consumed primarily by the Military Department established under 3 V.S.A. § 212 and 20 V.S.A. § 361(a) or the National Guard as defined in 32 U.S.C. § 101(3), and installed on property of the Military Department or National Guard located in Vermont, shall be considered a net metering system for purposes of this section if it has a capacity of 2.2 MW or less and meets the provisions of subdivisions ~~(a)(3)(B) through (E)~~ (a)(6)(B)–(D) of this section.

(2) If the interconnecting electric company agrees, a solar facility or group of solar facilities for the generation of electricity, to be installed by one or more municipalities on a capped landfill, shall be considered a net metering system for purposes of this section if the facility or group of facilities has a total capacity of 2.2 MW or less and meets the provisions of subdivisions (a)(6)(B)–(D) of this section. The facilities or group of facilities may serve as a group net metering system that includes each participating municipality and may include members who are not a municipality. In this subdivision (2), "municipality" shall have the same meaning as under 24 V.S.A. § 4551.

(3) ~~Such a~~ A facility described in this subsection shall not be subject to and shall not count toward the capacity limits of subdivisions ~~(a)(3)(A)~~ (a)(6)(A) (no more than 500 kW) and (h)(1)(A) (~~four~~ 15 percent of peak demand) of this section.

Fifth: In Sec. 1, 30 V.S.A. § 219a(n), in the first sentence, after "facilities" by inserting to produce power and, before "installed," by inserting to be

Sixth: In Sec. 1, 30 V.S.A. § 219a (self-generation and net metering), in subdivision (o)(1) (renewable energy achievement requirements), by striking out subdivision (B) and inserting in lieu thereof a new subdivision (B) to read:

(B) the electric company owns and has retired tradeable renewable energy credits monitored and traded on the New England Generation Information System or otherwise approved by the Board equivalent to 90 percent of the company's total periodic retail sales of electricity calculated on a monthly basis commencing with the effective date of this subsection (o) and switching to an annual basis beginning one year after the effective date of this subsection; and

Seventh: In Sec. 4, 30 V.S.A. § 8010, in subsection (c), by striking out subdivision (3) and inserting in lieu thereof a new subdivision (3) to read:

(3) The rules shall establish standards and procedures governing application for and issuance or revocation of a certificate of public good for net

metering systems under the provisions of section 248 of this title. In establishing these standards and procedures, the rules:

(A) may waive the requirements of section 248 of this title that are not applicable to net metering systems, including criteria that are generally applicable to public service companies as defined in this title;

(B) may modify notice and hearing requirements of this title as the Board considers appropriate;

(C) shall seek to simplify the application and review process as appropriate; and

(D) with respect to net metering systems that exceed 150 kW in plant capacity, shall apply the so-called "Quechee" test for aesthetic impact as described by the Vermont Supreme Court in the case of In re Halnon, 174 Vt. 515 (2002) (mem.). The rules and application form shall state the components of this test.

Eighth: After Sec. 9, by inserting a reader guide and Sec. 9a to read:

* * * Advocacy; Regional Electric System * * *

Sec. 9a. 30 V.S.A. § 2(f) is added to read:

(f) In all forums affecting policy and decision making for the New England region's electric system, including matters before the Federal Energy Regulatory Commission and the Independent System Operator of New England, the Department of Public Service shall advance positions that are consistent with the statutory policies and goals set forth in 10 V.S.A. §§ 578, 580, and 581 and sections 202a, 8001, and 8005 of this title. This subsection shall not compel the Department to initiate or participate in litigation and shall not preclude the Department from entering into agreements that represent a reasonable advance to these statutory policies and goals.

Ninth: In Sec. 10 (effective dates, applicability; implementation), in subsection (a), after the first parenthetical phrase, by striking out "and" and inserting a new comma and after the second parenthetical phrase, by inserting , and 9a (advocacy; regional electric system)

Tenth: In Sec. 10 (effective dates; applicability; implementation), in subsection (b), by striking out the first sentence and inserting in lieu thereof:

In this subsection, "amended subdivisions" means 30 V.S.A. § 219a(e)(3)(A) (credits), (e)(4)(B)(credits), and (h)(1)(K) (mandatory solar incentive) as amended by Sec. 1 of this act.

Eleventh: In Sec. 10 (effective dates; applicability; implementation), by adding a subsection (h) to read:

(h) During statutory revision, the Office of Legislative Council shall substitute the actual dates for the phrases, in 30 V.S.A. § 219a(o)(1)(B), "effective date of this subsection" and "one year after the effective date of this subsection."

(Committee vote: 4-2-1)

(For House amendments, see House Journal for January 29, 2014, page 166.)

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.

Patti Pallito of Richmond – Member of the State Police Advisory Commission – By Sen. French for the Committee on Government Operations. (2/19/14)

Shirley A. Jefferson of South Royalton – Member of the State Police Advisory Commission – By Sen. McAllister for the Committee on Government Operations. (2/19/14)

Glenn Boyde of Colchester – Member of the State Police Advisory Commission – By Sen. Pollina for the Committee on Government Operations. (2/19/14)

Lisa Gosselin of Stowe – Commissioner of the Department of Economic Development – By Sen. Doyle for the Committee on Economic Development, Housing and General Affairs. (3/12/14)

PUBLIC HEARINGS

Wednesday, March 12, 2014 – Room 10 – 5:00 P.M. – 7:00 P.M. – Re: DR 14-742 Governance Structure for Education - House Committee on Education.

NOTICE OF JOINT ASSEMBLY

March 20, 2014 – 10:30 A.M. – Retention of Superior Judges: Nancy S. Corsones, Amy M. Davenport, Katharine A. Hayes, Martin A. Maley, David T. Suntag, and Tomas G. Walsh

FOR INFORMATION ONLY

CROSSOVER DEADLINES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 14, 2014**, and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate** bills referred pursuant to Senate Rule 31 to the Committees on Appropriations and Finance must be reported out by the last of those committees on or before **Friday, March 21, 2014**, and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

These deadlines may be waived for any bill or committee only with the consent of the Committee on Rules.

Note: The deadlines were determined by the Joint Rules Committee. The Senate will not act on House bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations "Big Bill", Transportation Spending Bill, Capital Construction Bill, and Miscellaneous Tax Bill).