

Journal of the Senate

FRIDAY, MARCH 15, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Mara Dowdall of Montpelier.

Bills Referred to Committee on Appropriations

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

S. 82. An act relating to campaign finance law.

S. 132. An act relating to sheriffs, deputy sheriffs, and the service of process.

Committee Bill Introduced

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. 154.

By the Committee on Judiciary,

An act relating to classification of crimes.

Bill Introduced

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

S. 155.

By Senators Bray, Ayer, Baruth, Benning, Campbell, Collins, Cummings, Doyle, Flory, French, Lyons, MacDonald, McAllister, Mullin and Starr,

An act relating to creating a strategic workforce development needs assessment and strategic plan.

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

Committee Bill Introduced

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. 156.

By the Committee on Health and Welfare,
An act relating to home visiting standards.

Bill Referred

House bill of the following title was read the first time and referred:

H. 14.

An act relating to the law enforcement authority of liquor control investigators.

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

Third Reading Ordered

S. 148.

Senate committee bill entitled:

An act relating to criminal investigation records and the Vermont Public Records Act.

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senator Sears, Benning, Nitka, White and Ashe moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(5)(A) records dealing with the detection and investigation of crime, ~~including those maintained on any individual or compiled in the course of a~~

criminal or disciplinary investigation by any police or professional licensing agency; but only to the extent that the production of such records:

(i) could reasonably be expected to interfere with enforcement proceedings;

(ii) would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecution if such disclosure could reasonably be expected to risk circumvention of the law;

(vi) could reasonably be expected to endanger the life or physical safety of any individual;

(B) Notwithstanding subdivision (A) of this subdivision (5), a public entity shall not reveal information that could be used to facilitate the commission of a crime or the name of a private individual who is a witness to or victim of a crime, unless withholding the name or information would conceal government wrongdoing;

(C) ~~provided, however, that~~ Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public;

(D) It is the intent of the General Assembly that in construing subdivision (A) of this subdivision (5), the courts of this State will be guided by the construction of similar terms contained in 5 U.S.C. § 552(b)(7) (Freedom of Information Act) by the courts of the United States;

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Bill Passed

S. 59.

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

An act relating to independent direct support providers

Bill Passed in Concurrence

H. 63.

House bill of the following title was read the third time and passed in concurrence:

An act relating to repealing an annual survey of municipalities.

Third Reading Ordered

S. 130.

Senate committee bill entitled:

An act relating to encouraging flexible pathways to secondary school completion.

Having appeared on the Calendar for notice for one day, was taken up.

Senator Fox, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senator Baruth moved to amend the bill as follows:

First: In Sec. 1, 16 V.S.A. § 944(f)(2), by striking out “subdivision (1)” the second time it appears and inserting in lieu thereof the following: subdivision (1)(A)

Second: In Sec. 1, 16 V.S.A. § 944(f), by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

(3) If it agrees to the terms of subsection (c) of this section, an accredited private postsecondary institution in Vermont approved pursuant to section 176 of this title shall receive tuition pursuant to subdivisions (1) and

(2) of this subsection (f) for each eligible student it enrolls in a college-level course under this section.

Third: In Sec. 1, 16 V.S.A. § 944(h), before the final period, by inserting the following: ; provided, however, that payment under subdivision (f)(2) of this section shall not be made for more than two courses per eligible student

Fourth: In Sec. 9, by striking out the citation “16 V.S.A. § 944(f)” and inserting in lieu thereof the citation 16 V.S.A. § 944(f)(2) and also in Sec. 9, after the year “2015” by inserting the following: under subdivision (f)(1)(A)

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 85.

Senator Baruth, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to workers’ compensation for firefighters and rescue or ambulance workers.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(11) “Personal injury by accident arising out of and in the course of employment” includes an injury caused by the willful act of a third person directed against an employee because of that employment.

* * *

(H)(i) In the case of firefighters and members of a rescue or an ambulance squad, disability or death resulting from lung disease or an infectious disease caused by aerosolized airborne infectious agents or blood-borne pathogens and acquired after a documented occupational exposure in the line of duty to a person with an illness shall be presumed to be compensable, unless it is shown by a preponderance of the evidence that the disease was caused by nonservice-connected risk factors or nonservice-connected exposure. The presumption of compensability shall not

be available if the employer offers a vaccine that is refused by the firefighter or rescue or ambulance worker and the firefighter or rescue or ambulance worker is subsequently diagnosed with the particular disease for which the vaccine was offered, unless the firefighter or rescue or ambulance worker's physician deems that the vaccine is not medically safe or appropriate for the firefighter or rescue or ambulance worker.

(ii) In the case of lung disease the presumption of compensability shall not apply to any firefighter or rescue or ambulance worker who has used tobacco products at any time within 10 years of the date of diagnosis.

(iii) A firefighter or rescue or ambulance worker shall have been diagnosed within 10 years of the last active date of employment as a firefighter or rescue or ambulance worker.

(iv) As used in this subdivision, "exposure" means contact with infectious agents such as bodily fluids through inhalation, percutaneous inoculation, or contact with an open wound, nonintact skin, or mucous membranes, or other potentially infectious materials that may result from the performance of an employee's duties. Exposure includes:

(I) Percutaneous exposure. Percutaneous exposure occurs when blood or bodily fluid is introduced into the body through the skin, including by needle sticks, cuts, abrasions, broken cuticles, and chapped skin.

(II) Mucocutaneous exposure. Mucocutaneous exposure occurs when blood or bodily fluids come in contact with a mucous membrane.

(III) Airborne exposure. Airborne exposure means contact with an individual with a suspected or confirmed case of airborne disease or contact with air containing aerosolized airborne disease.

* * *

(28) "Aerosolized airborne infectious agents" means microbial aerosols that can enter the human body, usually through the respiratory tract, and cause disease, including mycobacterium tuberculosis, meningococcal meningitis, varicella zoster virus, diphtheria, mumps, pertussis, pneumonic plague, rubella, severe acute respiratory syndrome, anthrax, and novel influenza.

(29) "Blood-borne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans, including anthrax, hepatitis B virus (HBV), hepatitis C virus (HCV), human immunodeficiency virus (HIV), rabies, vaccinia, viral hemorrhagic fevers, and methicillin-resistant staphylococcus aureus.

(30) "Bodily fluids" means blood and bodily fluids containing blood or other potentially infectious materials as defined in the Vermont Occupational

Safety and Health Administration Bloodborne Pathogen Standard (1910.1030). Bodily fluids also include respiratory, salivary, and sinus fluids, including droplets, sputum and saliva, mucus, and other fluids through which infectious airborne organisms can be transmitted between persons.

Sec. 2. EDUCATION AND TRAINING

To the extent that resources are available the Department of Health and the Vermont Fire Academy shall provide education and training on an annual basis to firefighters, first responders, emergency medical technicians, and paramedics on the requirements of the Occupational Safety and Health Administration standards 1910.134 (respiratory protection) and 1910.1030 (bloodborne pathogens).

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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.

Message from the House No. 29

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. 182. An act relating to search and rescue.

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

The House has considered Senate proposal of amendment to the following House bill:

H. 41. An act relating to civil forfeiture of retirement payments to public officials convicted of certain crimes.

And has severally concurred therein.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 52. House concurrent resolution commemorating the sestercentennial anniversary of the town of Orwell.

H.C.R. 53. House concurrent resolution commemorating the bicentennial anniversary of the Old Round Church in Richmond and the 40th anniversary of the Richmond Historical Society.

H.C.R. 54. House concurrent resolution honoring Dennis McCarthy for his exemplary municipal public service career.

H.C.R. 55. House concurrent resolution honoring Jamaica Village School principal Janet Hamilton.

H.C.R. 56. House concurrent resolution commending the heroic rescue efforts and sacrifice of Alton Lombard Sr. and also the Vermont State Police for its continuing search for his remains in Lake Champlain.

H.C.R. 57. House concurrent resolution commemorating the sestercentennial anniversary of the town of Bolton.

H.C.R. 58. House concurrent resolution congratulating the town of Colchester on its sestercentennial anniversary.

H.C.R. 59. House concurrent resolution commemorating the 250th anniversary of the Town of Jericho.

H.C.R. 60. House concurrent resolution commemorating the sestercentennial anniversary of the Town of Underhill.

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

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, were severally adopted in concurrence:

By Representative Stevens,

By Senators Ayer and Bray,

H.C.R. 52.

House concurrent resolution commemorating the sestercentennial anniversary of the town of Orwell.

By Representative O'Brien,

H.C.R. 53.

House concurrent resolution commemorating the bicentennial anniversary of the Old Round Church in Richmond and the 40th anniversary of the Richmond Historical Society.

By Representatives Goodwin and Miller,

By Senators Hartwell, Sears and White,

H.C.R. 54.

House concurrent resolution honoring Dennis McCarthy for his exemplary municipal public service career.

By Representatives Goodwin and Miller,

By Senators Galbraith and White,

H.C.R. 55.

House concurrent resolution honoring Jamaica Village School principal Janet Hamilton.

By Representatives Turner and Hubert,

H.C.R. 56.

House concurrent resolution commending the heroic rescue efforts and sacrifice of Alton Lombard Sr. and also the Vermont State Police for its continuing search for his remains in Lake Champlain.

By Representative Stevens and others,

H.C.R. 57.

House concurrent resolution commemorating the sescentennial anniversary of the town of Bolton.

By Representative Brennan and others,

By Senator Mazza,

H.C.R. 58.

House concurrent resolution congratulating the town of Colchester on its sescentennial anniversary.

By Representatives Till and Frank,

H.C.R. 59.

House concurrent resolution commemorating the 250th anniversary of the Town of Jericho.

By Representatives Frank and Till,

H.C.R. 60.

House concurrent resolution commemorating the sescentennial anniversary of the Town of Underhill.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, March 19, 2013, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 18.