

Journal of the Senate

TUESDAY, MAY 6, 2014

In the absence of the President (who was Acting Governor in the absence of the Governor) the Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 68

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

H. 88. An act relating to parental rights and responsibilities involving a child conceived as a result of a sexual assault.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has considered bills originating in the Senate of the following titles:

S. 28. An act relating to gender-neutral nomenclature for the identification of parents on birth certificates.

S. 168. An act relating to making miscellaneous amendments to laws governing municipalities.

S. 184. An act relating to eyewitness identification policy.

S. 218. An act relating to temporary employees.

S. 221. An act relating to providing statutory purposes for tax expenditures.

S. 295. An act relating to pretrial services, risk assessments, and criminal justice programs.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 234. An act relating to Medicaid coverage for home telemonitoring services.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Pearson of Burlington
Rep. Gage of Rutland City
Rep. O'Brien of Richmond.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 241. An act relating to binding arbitration for State employees.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Moran of Wardsboro
Rep. Weed of Enosburgh
Rep. O'Sullivan of Burlington.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 252. An act relating to financing for Green Mountain Care.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Fisher of Lincoln
Rep. Ancel of Calais
Rep. Copeland-Hanzas of Bradford.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 287. An act relating to involuntary treatment and medication.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Koch of Barre Town
Rep. Donahue of Northfield
Rep. Lippert of Hinesburg.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 314. An act relating to miscellaneous amendments to laws related to motor vehicles.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Potter of Clarendon
Rep. Brennan of Colchester
Rep. Grad of Moretown.

Message from the House No. 69

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that the Speaker of the House announced a change in the members on the part of the House of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 735. An act relating to Executive Branch and Judiciary fees.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Masland of Thetford
Rep. Clarkson of Woodstock
Rep. Ram of Burlington.

I am directed to inform the Senate that the Speaker of the House announced a change in the members on the part of the House of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 884. An act relating to miscellaneous tax changes.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Ancel of Calais
Rep. Sharpe of Bristol
Rep. Johnson of Canaan.

Bills Passed in Concurrence with Proposal of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposal of amendment:

H. 555. An act relating to the commitment of a criminal defendant who is incompetent to stand trial because of a traumatic brain injury.

H. 413. An act relating to the Uniform Collateral Consequences of Conviction Act.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 501.

House bill entitled:

An act relating to operating a motor vehicle under the influence of alcohol or drugs.

Was taken up.

Thereupon, pending third reading of the bill, Senator Rodgers moved to amend the Senate proposal of amendment in Sec. 1, 23 V.S.A. § 1201, by striking out subsection (h) in its entirety and inserting in lieu thereof a new subsection (h) to read as follows:

(h) As used in subdivision (a)(3) of this section, “under the influence of a drug” means that a drug interferes with a person’s safe operation of a vehicle. This subsection shall not be construed to affect the meaning of the terms “under the influence of intoxicating liquor” or “under the combined influence of alcohol and any other drug.”

Which was agreed to.

Senator Mazza Assumes the Chair

Senator Campbell Assumes the Chair

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 24, Nays 0.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Baruth, Benning, Bray, Collins, Doyle, Flory, French, Galbraith, Hartwell, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Ashe, Ayer, Campbell (presiding), Cummings, Kitchel, Zuckerman.

Bills Passed in Concurrence with Proposal of Amendment

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

H. 578. An act relating to administering State funds for loans to individuals for replacement of failed wastewater systems and potable water supplies.

H. 646. An act relating to unemployment insurance.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment**H. 656.**

House bill entitled:

An act relating to professions and occupations regulated by the Office of Professional Regulation.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the Senate proposal of amendment by in Sec. 9, 18 V.S.A. § 4201 (definitions), in subdivision (26) (definition of “prescription”), at the end of the subdivision following: “If a prescription is communicated orally, it shall be reduced promptly to writing by the pharmacist.” by inserting the following: Nothing in this subdivision is meant to authorize the oral communication of a prescription when a written prescription is otherwise required.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Bill Passed in Concurrence with Proposal of Amendment**H. 728.**

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

An act relating to developmental services’ system of care.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment**H. 645.**

House bill entitled:

An act relating to workers’ compensation.

Was taken up.

Thereupon, pending third reading of the bill, Senator Mullin moved to amend the Senate proposal of amendment by striking out Sec. 12 in its entirety and inserting two new sections to be numbered Secs. 12 and 13 to read as follows:

Sec. 12. 21 V.S.A. § 663b is added to read:

§ 663b. FRAUD

(a) Claims of fraud submitted by an employer or insurance carrier shall be investigated by the Commissioner, and the Commissioner shall make a decision on the claim within 30 days of receipt of the claim. A party may appeal the decision of the Commissioner.

(b) An employee found to have committed fraud in order to receive compensation under this chapter shall be ordered to repay all compensation received. The employer shall not be charged for these payments when the employer's experience rating is determined.

Sec. 13. EFFECTIVE DATES

(a) This section and Secs. 3, 4, and 9–12 shall take effect on passage.

(b) Secs. 1, 2, and 5–8 shall take effect on July 1, 2014.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 26, Nays 0.

Senator Bray having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Bray, Collins, Doyle, Flory, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, White.

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Campbell (presiding), Cummings, Westman, Zuckerman.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 86.

Senator White, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

An act relating to miscellaneous changes to election laws.

Respectfully reports that it has met and considered the same and that the Senate accede to the House's proposal of amendment with the following amendments thereto:

First: In Sec. 3, by striking out in its entirety 17 V.S.A. § 2154 (statewide voter checklist)

Second: By striking out in its entirety Sec. 4, 1 V.S.A. § 317(c)(31), and inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. [Deleted.]

Third: In Sec. 15, 17 V.S.A. § 2351 (primary election), following "A primary election shall be held on the ~~fourth~~" by striking out "first" and inserting in lieu thereof second

Fourth: In Sec. 16, 17 V.S.A. § 2356 (time for filing petitions and statements of nomination), by striking out in its entirety subsection (a) and inserting in lieu thereof a new subsection (a) to read:

(a) Primary petitions for major party candidates and statements of nomination ~~from for~~ minor party candidates ~~and independent candidates~~ shall be filed no sooner than the ~~second~~ fourth Monday in ~~May~~ April and not later than 5:00 p.m. on the ~~second~~ fourth Thursday after the first Monday in ~~June~~ May preceding the primary election prescribed by section 2351 of this ~~title~~ chapter, and not later than 5:00 p.m. of the 62nd day prior to the day of a special primary election.

Fifth: By adding a new section to be Sec. 17a to read:

Sec. 17a. 17 V.S.A. § 2402 is amended to read:

§ 2402. REQUISITES OF STATEMENT

* * *

(d)(1) A statement of nomination and a completed and signed consent form shall be filed ~~as set forth in section 2356 of this title;~~

(A) in the case of nomination for President or Vice President of the United States, no sooner than the fourth Monday in April and not later than 5:00 p.m. on August 1 in the year preceding the presidential general election; or

(B) in the case of any other independent candidate, no sooner than the fourth Monday in April and not later than 5:00 p.m. on the Thursday preceding the primary election prescribed by section 2351 of this chapter, and not later than 5:00 p.m. of the third day prior to the day of a special primary election.

(2) No public official receiving nominations shall accept a petition unless a completed and signed consent form is filed at the same time.

(3) A statement of nomination shall apply only to the election cycle in which the statement of nomination is filed.

* * *

Sixth: In Sec. 42, in 17 V.S.A. § 2602 (petitions for recounts), in subsection (b), in the second sentence, following “filed within ~~40~~ seven”, by inserting calendar

Seventh: In Sec. 74 (effective dates), by striking out in its entirety subdivision (3) and inserting in lieu thereof a new subdivision (3) to read:

(3) Secs. 15, 17 V.S.A. § 2351 (primary election); 16, 17 V.S.A. § 2356 (time for filing petitions and statements of nomination); and 17a, 17 V.S.A. § 2402 (requisites of statement), shall take effect on January 1, 2016; and

*JEANETTE K. WHITE
NORMAN H. MCALLISTER
ELDRED FRENCH*

Committee on the part of the Senate

*LINDA J. MARTIN
RONALD E. HUBERT
MICHEL A. CONSEJO*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 88.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to parental rights and responsibilities involving a child conceived as a result of a sexual assault.

Was taken up for immediate consideration.

The House concurs in the Senate proposal of amendment with the following amendment thereto:

In Sec. 1, 15 V.S.A. § 665, in subdivision (f)(2), in the first sentence, by striking out “finds that such an order is in the best interest of the child and” and in the first sentence, before the period, by inserting and the Court finds by a preponderance of the evidence that such an order is in the best interest of the child

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment Concurred In

S. 168.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House proposal of amendment to bill entitled:

An act relating to making miscellaneous amendments to laws governing municipalities.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill as follows:

First: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3. to read Sec. 3. [Deleted.]

Second: In Sec. 4, 20 V.S.A. § 3621, by striking out subdivision (a)(1) in its entirety and inserting in lieu thereof the following:

(a)(1) The legislative body of a municipality may at any time issue a warrant to one or more police officers ~~or~~ constables, pound keepers, ~~or elected~~ or appointed animal control officers, directing them to proceed forthwith to impound all dogs or wolf-hybrids within the town or city not licensed according to the provisions of this subchapter, except as exempted by section 3587 of this title, and to enter a complaint against the owners or keepers thereof.

Third: In Sec. 6, 17 V.S.A. § 2651d, in subsection (a), in the first sentence, by striking out the words “by Australian ballot”

Fourth: By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 to read Sec. 10. [Deleted.]

Fifth: In Sec. 11, 24 V.S.A. § 2291, by striking out subdivision (26) in its entirety and inserting in lieu thereof a new subdivision (26) to read:

(26) When a disaster or emergency has been declared by the Governor, a municipal building inspector, health officer, fire marshal, or zoning administrator may declare condemned to be destroyed a property that has been damaged in the disaster or emergency and is dangerous to life, health, or safety due to the disaster-related damage. The local legislative body may require that an official receive training on disaster-related condemnation before he or she may condemn property under this subdivision. The owner of property condemned under this subdivision may appeal the condemnation according to the condemnation appeals procedure of chapter 83 of this title, provided that any appeal to the Superior Court shall be to the Civil Division.

Sixth: By adding a Sec. 11a to read:

Sec. 11a. DISASTER CONDEMNATION TRAINING

On or before July 1, 2015, the Department of Health, in consultation with the Department of Housing and Community Development and the Department of Public Safety, shall develop condemnation guidance for inclusion in disaster training and education for local officials. The guidance shall include:

(1) methods of inspection of buildings and structures damaged by natural disaster; and

(2) standards for condemnation of buildings and structures damaged by natural disaster.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 295.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House proposal of amendment to Senate bill entitled:

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

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS

(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. These programs shall be reflective of the goals and principles of restorative justice pursuant to 28 V.S.A. § 2a. 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, precharge programs, pretrial services and case management, recovery support, DUI and other drug treatment courts, suspended fine programs, and offender reentry programs.

(b) 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.

(c) 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.

(d) 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 informing decisions by the State's Attorney and the Court related to a person's participation and level of supervision in an alternative justice program.

(e) As used in this act:

(1) "Clinical assessment" means the procedures, to be conducted after a client has been screened, by which a licensed or otherwise approved counselor identifies and evaluates and individual's strengths, weaknesses, problems, and needs for the development of a treatment plan.

(2) "Needs screening" means a preliminary systematic procedure to evaluate the likelihood that an individual has a substance abuse or a mental health condition.

(3) “Risk assessment” means a pretrial assessment that is designed to be predictive of a person’s failure to appear in court and risk of violating pretrial conditions of release with a new alleged offense.

(f) 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.

(g) Buprenorphine/Naloxone (Suboxone or Subutex) is a well-known medication used in the treatment of opioid addiction. Vermont spends \$8.3 million in Medicaid funds annually on these drugs. As medicated-assisted treatment for opiate addiction has increased substantially in the last several years, so has illegal diversion of these drugs and their misuse. Suboxone is currently the number one drug smuggled into Vermont correctional facilities and evidence suggests that the nonmedical use of such drugs is gaining in popularity. The General Assembly urges the administration to prioritize efforts to ensure that people with opiate addictions are provided access to necessary medication, while taking all possible measures to prevent the diversion and misuse of these drugs, including working with drug manufacturers.

(h) Approximately 54,000 Vermonters have abused or been dependent on alcohol or illicit drugs in the past year, according to the current National Survey on Drug Use and Health. More people abuse or are dependent on alcohol (approximately 39,000) than all illicit drugs combined (18,000). Many Vermonters struggle with both alcohol and illicit drugs. Substance abuse is expensive, and not solely due to the cost of providing treatment. Research indicates that \$1.00 invested in addiction treatment saves between \$4.00 and \$7.00 in reduced drug-related crime, criminal justice costs, and theft. Earlier intervention to provide services before major problems develop can save even more.

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

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

(a)(1) 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.

(2) The objective of a pretrial needs screening is to obtain a preliminary indication of whether a person has a substantial substance abuse or mental health issue that would warrant a subsequent court order for a more detailed clinical assessment.

(3) 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) A person whose offense or status falls into any of the following categories shall be offered a risk assessment and, if deemed appropriate by the pretrial monitor, a needs screening prior to arraignment:

(A) misdemeanor drug offenses cited into court;

(B) felony drug offenses cited into court;

(C) felonies that are not listed crimes cited into court;

(D) persons who are arrested and lodged and unable to post bail within 24 hours of lodging, excluding persons who are charged with an offense for which registration as a sex offender is required upon conviction pursuant to subchapter 3 of chapter 167 of this title or an offense punishable by up to life imprisonment; and

(E) persons not charged with a listed crime who are identified by law enforcement, the prosecution, the defense, probation and parole personnel, the Court, a treatment provider, or a family member or friend as having a substantial substance abuse or mental health issue.

(2) Participation in an assessment or screening shall be voluntary.

(3) 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.

(4) A person who qualifies pursuant to subdivision (1)(A)–(E) of this subsection and who has an additional pending charge or a violation of probation shall not be excluded from being offered a risk assessment or needs screening unless the other charge is a listed crime as defined in section 5301 of this title.

(5) Nothing in this section shall be construed to limit the Court's authority to order an assessment or screening as a condition of release under section 7554 of this title.

(6) The Administrative Judge and Court Administrator, in consultation with the Secretary of Human Services and the Commissioner of Corrections, shall develop a statewide plan for the phased, consistent rollout of the categories identified in subdivisions (1)(A) through (E) of this subsection. All

persons whose offense or status falls into one of the categories shall be eligible for a risk assessment or needs screening on or before January 1, 2016. Prior to that date, a person shall not be guaranteed the offer of a risk assessment or needs screening solely because the person's offense or status falls into one of the categories. Criminal justice professionals charged with implementation shall adhere to the plan.

(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 pretrial monitor on a schedule set by the Court;

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

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

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

(E) provide confirmation to the pretrial 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 pretrial 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 and shall not limit the Court in any way.

(e)(1) 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, except as provided in subdivision (2) of this subsection, only may be used for determining bail, conditions of release, and appropriate programming for the person in the pending case. The immunity provisions of this subsection apply only to the use and derivative use of information gained as a proximate result of the risk assessment or needs screening.

(2) 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.

(3) The Vermont Supreme Court in accordance with judicial rulemaking as provided in 12 V.S.A. § 1 shall promulgate and the Department of Corrections in accordance with the Vermont Administrative Procedure Act pursuant to 3 V.S.A. chapter 25 shall adopt rules related to the custody, control, and preservation of information consistent with the confidentiality requirements of this section. Emergency rules adopted prior to January 1, 2015 pursuant to this section shall be considered to meet the “imminent peril” standard under 3 V.S.A. § 844(a).

(f) The Administrative Judge shall develop guidelines for the appropriate use of court-ordered pretrial monitoring services based upon the risk and needs of the defendant.

Sec. 3. RISK ASSESSMENT 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.

(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 Executive Director 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 pretrial monitoring. The contract shall include requirements to comply with data collection and evaluation procedures.

(e) Pretrial monitoring may 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;

(3) identifying community-based treatment, rehabilitative services, recovery supports, and restorative justice programs; and

(4) supporting a prosecutor's precharge program.

(f)(1) The Department, in consultation with the Judiciary and the Crime Research Group, shall develop and implement a system to evaluate goals and performance of the pretrial services described in this section and report to the General Assembly annually on or before December 15.

(2) The Agency of Human Services, in consultation with the Judiciary, shall ensure that a study is conducted to include an outcome study, process evaluation and cost benefit analysis.

(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. The recommendation for the system for referral shall be inclusive of all initiatives within the Agency of Human Services, including those within the Blueprint for Health and Screening, Brief Intervention, and Referral for Treatment (SBIRT), as well as initiatives within the Green Mountain Care Board and the State Innovation Model (SIM) grant.

* * * Alternative Justice Programs * * *

Sec. 4. PROSECUTOR PRECHARGE PROGRAM GUIDELINES AND REPORTING

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

(b) On or before October 1, 2014, and annually thereafter, the Executive Director of the Department 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 Director of Court Diversion, a co-chair of the Community Justice

Network of Vermont, and State, municipal, and county law enforcement officials.

Sec. 5. [Deleted.]

Sec. 6. [Deleted.]

Sec. 7. [Deleted.]

* * * Criminal Provisions * * *

Sec. 8. 18 V.S.A. § 4235b is added to read:

§ 4235b. TRANSPORTATION OF DRUGS INTO THE STATE;
AGGRAVATING FACTOR

When imposing a sentence for a felony violation of dispensing or selling a regulated drug in violation of this chapter, the Court shall consider as an aggravating factor whether the person knowingly and unlawfully transported the regulated drug into Vermont.

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, either full-time or part-time, 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) When imposing a sentence under this section, the Court shall consider as an aggravating factor whether, during commission of the offense, the person:

(A) entered the building when someone was actually present;

(B) used or threatened to use force against the occupant; or

(C) carried a dangerous or deadly weapon, openly or concealed, during the commission of the offense, and the person has not been convicted of a violation of section 4005 of this title in connection with the offense.

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. DVHA AUTHORITY; USE OF AVAILABLE SANCTIONS

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

Sec. 12. CONTINUED MEDICATION-ASSISTED TREATMENT FOR INCARCERATED PERSONS

(a) The Department of Corrections, in consultation with the Medication-Assisted Treatment for Inmates Work Group created by 2013 Acts and Resolves No. 67, Sec. 11, shall develop and implement a one-year demonstration project to pilot the continued use of medication-assisted treatment within Department facilities for detainees and sentenced inmates.

(b) The pilot project shall offer continued medication-assisted treatment for opioid dependence with methadone or buprenorphine and a prescribed taper as appropriate to incarcerated persons who were participating in medication-assisted treatment in the community immediately prior to incarceration.

(c) As used in this section, “prescribed taper” means a clinically appropriate medication taper that is designed to minimize withdrawal symptoms and limit avoidable suffering.

(d) The Commissioner of Corrections shall publish an interim revision memorandum to replace Directive 363.01 as recommended by the Medication-Assisted Treatment for Inmates Work Group.

(e) On or before July 30, 2014, the Department shall enter into memoranda of understanding with the Department of Health and with hub treatment providers regarding ongoing medication-assisted treatment for persons in the custody of the Department.

(f) The Department shall collaborate with the Department of Health to facilitate the provision of opioid overdose prevention training for pilot project participants who are incarcerated and the distribution of overdose rescue kits with naloxone at correctional facilities to persons who are transitioning from incarceration back into the community.

(g) The Departments of Corrections and of Health shall continue the Medication-Assisted Treatment for Inmates Work Group created by 2013 Acts and Resolves No. 67, Sec. 11 to inform and monitor implementation of the demonstration project. The Departments shall evaluate the demonstration project and provision of medication-assisted treatment to persons who are incarcerated in Vermont and report their findings, including a proposed schedule of expansion, to the House Committees on Corrections and Institutions, on Human Services, and on Judiciary, the Senate Committees on Health and Welfare and on Judiciary, and the Joint Committee on Corrections Oversight on or before January 1, 2015.

Sec. 13. VPMS QUERY; RULEMAKING

The Secretary of Human Services shall adopt rules requiring:

(1) All Medicaid participating providers, whether licensed in or outside Vermont, who prescribe buprenorphine or a drug containing buprenorphine to a Vermont Medicaid beneficiary to query the Vermont Prescription Monitoring System the first time they prescribe buprenorphine or a drug containing buprenorphine for the patient and at regular intervals thereafter. Regular intervals shall exceed the requirements for other Schedule III pharmaceuticals, and queries shall be done prior to prescribing a replacement prescription. The rules shall also include dosage thresholds, which may be exceeded only with prior approval from the Chief Medical Officer of the Department of Vermont Health Access or designee.

(2) All providers licensed in Vermont who prescribe buprenorphine or a drug containing buprenorphine to a Vermont patient who is not a Medicaid

beneficiary to query the Vermont Prescription Monitoring System the first time they prescribe buprenorphine or a drug containing buprenorphine for the patient and at regular intervals thereafter. Regular intervals shall exceed the requirements for other Schedule III pharmaceuticals, and queries shall be done prior to prescribing a replacement prescription. The rules shall also include dosage thresholds.

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 are screened or assessed to determine their need for counseling and that patients who are determined to need counseling or other support services are referred for appropriate counseling from a licensed clinical professional or for other services as needed.

Sec. 15. 26 V.S.A. chapter 36, subchapter 8 is added to read:

Subchapter 8. Naloxone Hydrochloride

§ 2080. NALOXONE HYDROCHLORIDE; DISPENSING OR FURNISHING

(a) The Board of Pharmacy shall adopt protocols for licensed pharmacists to dispense or otherwise furnish naloxone hydrochloride to patients who do not hold an individual prescription for naloxone hydrochloride. Such protocols shall be consistent with rules adopted by the Commissioner of Health.

(b) Notwithstanding any provision of law to the contrary, a licensed pharmacist may dispense naloxone hydrochloride to any person as long as the pharmacist complies with the protocols adopted pursuant to subsection (a) of this section.

Sec. 16. [Deleted.]

Sec. 16a. DEPARTMENT OF CORRECTIONS AND HEALTH CARE REFORM

(a) The Agency of Human Services and its departments shall assist the Department of Corrections in fully enacting the provisions of the Affordable Care Act and Vermont's health care reform initiatives as they pertain to persons in the criminal justice population, including access to health information technology, the Blueprint for Health, Medicaid enrollment, the health benefit exchange, health plans, and other components under the Department of Vermont Health Access that support and ensure a seamless process for reentry to the community or readmission to a correctional facility.

(b) The Department of Corrections shall include substance abuse and mental health services in its request for proposal (RFP) process for inmate health services. Through the RFP, the Department shall require that substance abuse and mental health services be provided to persons while incarcerated.

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.

* * *

(g) The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person's seeking medical assistance for a drug overdose, being the subject of a good faith request for medical assistance, being at the scene, or being within close proximity to any person at the scene of the drug overdose for which medical assistance was sought and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.

Sec. 18. EFFECTIVE DATES

(a) Sec. 2 shall take effect on January 1, 2015.

(b) This section and Secs. 1 (legislative intent), 3 (risk assessment and needs screening tools), 4 (prosecutor precharge programs and reporting), 10 (Department of Public Safety report), 13 (VPMS query; rulemaking), 14 (medication assisted therapy, rulemaking), and 17 (immunity from liability) shall take effect on passage.

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

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sears, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Appointments Confirmed

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator White, the following Gubernatorial appointments were confirmed together as a group by the Senate, without reports given by the Committees to which they were referred and without debate:

Ryan, Linda of St. Albans - Member, Vermont State Housing Authority – April 8, 2014, to February 28, 2019.

Marvin, Emma of Hyde Park - Member, Vermont Economic Progress Council - February 12, 2014, to March 31, 2015.

O'Connor, Martha of Brattleboro – Member, Vermont State Lottery Commission – March 21, 2014, to February 28, 2017.

Keane, Michael of North Bennington - Member, Vermont Economic Progress Council – July 18, 2013, to March 31, 2017.

Gentile, Betsy of Brattleboro - Member, Vermont Economic Progress Council - July 18, 2013, to March 31, 2017.

Kenney, Frederick S., II of Jericho - Executive Director, Vermont Economic Progress Council - June 26, 2013, to March 31, 2015.

Luce, David of Waterbury Center - Member, Community High School of Vermont Board – March 1, 2014, to February 28, 2017.

Brodsky, Mary of Essex - Member, Human Rights Commission – March 21, 2014, to February 28, 2019.

Dunsmore, Carol of Swanton - Member, Current Use Advisory Board - June 14, 2012, to January 31, 2014.

Fallar, Gail of Tinmouth – Member, Current Use Advisory Board – April 8, 2014, to January 31, 2017.

Fallar, Gail of Tinmouth - Alternate Member, Natural Resources Board - June 7, 2013, to January 31, 2017.

Smith, Denise of St. Albans - Member, VT Citizens' Advisory Council on Lake Champlain's Future - June 7, 2013, to February 28, 2015.

MacDonald, Alex of Lincoln - Member, VT Citizens' Advisory Council on Lake Champlain's Future - September 4, 2013, to February 28, 2015.

Fisher, Lori of Williston - Member, VT Citizens' Advisory Council on Lake Champlain's Future - March 21, 2014, to February 28, 2017.

Fischer, Robert of Barre - Member, VT Citizens' Advisory Council on Lake Champlain's Future - February 12, 2014, to February 28, 2015.

Hansen, Paul of South Alburgh - Member, VT Citizens' Advisory Council on Lake Champlain's Future - March 21, 2014, to February 28, 2017.

Clifford, Eric of Starksboro - Member, VT Citizens' Advisory Council on Lake Champlain's Future - March 1, 2014, to February 28, 2017.

Moore, Julia of Middlesex - Member, VT Citizens' Advisory Council on Lake Champlain's Future - March 1, 2014, to February 28, 2017.

Young, Sheri of Orwell - Member, VT Citizens' Advisory Council on Lake Champlain's Future - March 1, 2014, to February 28, 2017.

Davies, William Boyd of Orleans - Member, Natural Resources Board - June 7, 2013, to January 31, 2017.

Haynes, Charles of East Montpelier - Alternate Member, Natural Resources Board - June 7, 2013, to January 31, 2015.

Illick, Martha of Charlotte - Member, Natural Resources Board - June 7, 2013, to January 31, 2016.

Powden, Patricia Moulton of South Londonderry - Alternate Member, Natural Resources Board - June 7, 2013, to January 31, 2016.

Wilkel, Elizabeth of Walden - Member, Natural Resources Board - February 1, 2012, to January 31, 2015.

Sargent, Donald of Colchester - Member, Natural Resources Board - February 12, 2014, to January 31, 2018.

Wolcott, Julie of Enosburg Falls - Alternate Member, Natural Resources Board - February 12, 2014, to January 31, 2018.

Rules Suspended; Bills Messaged

On motion of Senator Baruth, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 413, H. 501, H. 555, H. 578, H. 645, H. 646, H. 656, 728.

Message from the House No. 70

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered bills originating in the Senate of the following titles:

S. 40. An act relating to establishing an interim committee that will develop policies to restore the 1980 ratio of state funding to student tuition at Vermont State Colleges and to make higher education more affordable.

S. 202. An act relating to the energy efficiency charge.

S. 256. An act relating to the solemnization of a marriage by a Judicial Bureau hearing officer.

S. 269. An act relating to business consumer protection and data security breaches.

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

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

S. 211. An act relating to permitting of sewage holding and pumpout tanks for public buildings.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 299. An act relating to sampler flights.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Head of South Burlington

Rep. Stevens of Waterbury

Rep. Van Wyck of Ferrisburgh

Adjournment

On motion of Senator Baruth, the Senate adjourned until three o'clock and thirty minutes in the afternoon.

Afternoon

The Senate was called to order by the President.

Message from the House No. 71

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to the following House bills:

H. 325. An act relating to the rights of children of arrested and incarcerated parents.

H. 350. An act relating to the posting of medical unprofessional conduct decisions and to investigators of alleged unprofessional conduct.

H. 581. An act relating to guardianship of minors.

H. 690. An act relating to the definition of serious functional impairment.

H. 740. An act relating to transportation impact fees.

H. 758. An act relating to notice of potential layoffs.

H. 795. An act relating to victim's compensation and restitution procedures.

H. 809. An act relating to designation of new town centers and growth centers.

H. 890. An act relating to approval of amendments to the charter of the City of Burlington regarding the redistricting of City election areas.

And has severally concurred therein.

The Governor has informed the House that on the May 2, 2014, he approved and signed bills originating in the House of the following titles:

H. 347. An act relating to veterinary dentistry.

H. 871. An act relating to miscellaneous pension changes.

H. 886. An act relating to approval of the adoption and the codification of the charter of the Town of Panton.

H. 887. An act relating to approval of the adoption and the codification of the charter of the Town of East Montpelier.

The Governor has informed the House that on the May 5, 2014, he approved and signed a bill originating in the House of the following title:

H. 589. An act relating to hunting, fishing, and trapping.

Committee Relieved of Further Consideration; Bills Committed**H. 870.**

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to the merger of the Town of Pittsford and the Pittsford Fire District No. 1,

and the bill was committed to the Committee on Government Operations.

H. 892.

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to approval of the adoption and the codification of the charter of the Central Vermont Public Safety Authority,

and the bill was committed to the Committee on Government Operations.

H. 893.

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to approval of the adoption and the codification of the charter of the North Branch Fire District No. 1,

and the bill was committed to the Committee on Government Operations.

H. 894.

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to approval of amendments to the charter of the City of Montpelier and to merging the Montpelier Fire District No. 1 into the City of Montpelier,

and the bill was committed to the Committee on Government Operations.

Committee of Conference Appointed**S. 295.**

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

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Sears
Senator Benning
Senator Lyons

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

House Proposal of Amendment Concurred In with Amendment

S. 208.

House proposal of amendment to Senate bill entitled:

An act relating to solid waste management.

Was taken up.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Architectural Waste Recycling* * *

Sec. 1. FINDINGS

The General Assembly finds that, for the purposes of Secs. 1–3 of this act:

(1) Certain waste from commercial development projects can create significant issues for the capacity and operation of landfills in the State.

(2) There are opportunities for materials recovery of certain waste from commercial development projects in a manner consistent with Vermont's solid waste management priorities of reuse and recycling.

(3) Substantial opportunity exists in Vermont for the recovery and recycling of certain materials in the waste from commercial development projects, including wood, drywall, asphalt shingles, and metal.

(4) To reduce the amount of waste from commercial development projects in landfills and improve materials recovery, the construction industry should attempt to recover certain waste from commercial development projects from the overall waste stream.

Sec. 2. 10 V.S.A. § 6605m is added to read:

§ 6605m. ARCHITECTURAL WASTE RECYCLING

(a) Definitions. In addition to the definitions in section 6602 of this chapter, as used in this section:

(1) "Architectural waste" means discarded drywall, metal, asphalt shingles, clean wood, and treated or painted wood derived from the construction or demolition of buildings or structures.

(2) "Commercial project" means construction, renovation, or demolition of a commercial building or of a residential building with two or more residential units.

(b) Materials recovery requirement. Beginning on or after January 1, 2015, if a person produces 40 cubic yards or more of architectural waste at a commercial project located within 20 miles of a solid waste facility that recycles architectural waste, the person shall:

(1) arrange for the transfer of architectural waste from the project to a certified solid waste facility, which shall be required to recycle the architectural waste or arrange for its reuse unless the facility demonstrates to the Secretary a lack of a market for recycling or reuse and a plan for reentering the market when it is reestablished; or

(2) arrange for a method of disposition of the architectural waste that the Secretary of Natural Resources deems appropriate as an end use, including transfer of the architectural waste to an out-of-state facility that recycles architectural waste and similar materials.

(c) Transition; application. The requirements of this section shall not apply to a commercial project subject to a contract entered into on or before January 1, 2015 for the disposal or recycling of architectural waste from the project.

(d) Guidance on separation of hazardous materials. The Secretary of Natural Resources shall publish informational material regarding the need for a solid waste facility that recycles architectural waste to manage properly and provide for the disposition of hazardous waste and hazardous material in architectural waste delivered to a facility.

Sec. 3. ANR REPORT ON ARCHITECTURAL WASTE RECYCLING

On or before January 1, 2017, the Secretary of Natural Resources, after consultation with interested persons, shall submit to the Senate and House Committees on Natural Resources and Energy a report regarding implementation of the requirements for architectural waste recycling in the State under 10 V.S.A. § 6605m. The report shall include:

(1) a summary of the implementation of the requirements of 10 V.S.A. § 6605m for the recycling of architectural waste;

(2) an estimate of the amount of architectural waste recycled or reused since January 1, 2015;

(3) whether viable markets exist for the cost-effective recycling or reuse of additional components of the waste stream from commercial projects;

(4) a recommendation as to whether architectural waste should be banned from landfill disposal; and

(5) any other recommended statutory changes to the requirements of this section.

* * * Solid Waste Management Facility Certification * * *

Sec. 4. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

* * *

(j) A facility certified under this section that offers the collection of municipal solid waste shall:

* * *

(l) A facility certified under this section that offers the collection of municipal solid waste shall not charge a separate fee for the collection of mandated recyclables. A facility certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of municipal solid waste and may adjust the charge for the collection of municipal solid waste. A facility certified under this section may charge a separate fee for the collection of leaf and yard residuals or food residuals. If a facility collects mandated recyclables from a commercial hauler, the facility may charge a fee for the collection of those mandated recyclables.

Sec. 5. 10 V.S.A. § 6605c(a) is amended to read:

(a) Notwithstanding sections 6605, 6605f, and 6611 of this title, no person may construct, substantially alter, or operate any categorical solid waste facility without first obtaining a certificate from the Secretary. Certificates shall be valid for a period not to exceed ~~five~~ 10 years.

* * * Solid Waste Transporters; Mandated Recyclables * * *

Sec. 6. 10 V.S.A. § 6607a is amended to read:

§ 6607a. WASTE TRANSPORTATION

(a) A commercial hauler desiring to transport waste within the State shall apply to the Secretary for a permit to do so, by submitting an application on a form prepared for this purpose by the Secretary and by submitting the disclosure statement described in section 6605f of this title. These permits shall have a duration of five years and shall be renewed annually. The application shall indicate the nature of the waste to be hauled. The Secretary

may specify conditions that the Secretary deems necessary to assure compliance with ~~state~~ State law.

(b) As used in this section:

(1) “Commercial hauler” means:

(A) any person that transports regulated quantities of hazardous waste; and

(B) any person that transports solid waste for compensation in a vehicle ~~having a rated capacity of more than one ton.~~

(2) The commercial hauler required to obtain a permit under this section is the legal or commercial entity that is transporting the waste, rather than the individual employees and subcontractors of the legal or commercial entity. In the case of a sole proprietorship, the sole proprietor is the commercial entity.

* * *

(g)(1) Except as set forth in subdivisions (2) and (3) of this subsection, a transporter certified under this section that offers the collection of municipal solid waste shall:

(A) Beginning July 1, 2015, offer to collect mandated recyclables separated from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)–(5) of this title.

(C) Beginning July 1, 2017, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)–(5) of this title.

(2) In a municipality that has adopted a solid waste management ordinance addressing the collection of mandated recyclables, leaf and yard residuals, or food residuals, a transporter in that municipality is not required to comply with the requirements of subdivision (1) of this subsection and subsection (h) of this section for the material addressed by the ordinance if the ordinance:

(A) is applicable to all residents of the municipality;

(B) prohibits a resident from opting out of ~~municipally provided~~ municipally provided solid waste services; and

(C) does not apply a variable rate for the collection for the material addressed by the ordinance.

(3) A transporter is not required to comply with the requirements of subdivision (1)(A), (B), or (C) of this subsection in a specified area within a municipality if:

(A) the Secretary has approved a solid waste implementation plan for the municipality;

(B) for purposes of waiver of the requirements of subdivision (1)(A) of this subsection (g), the Secretary determines that under the approved plan:

(i) the municipality is achieving the per capita disposal rate in the State Solid Waste Plan; and

(ii) the municipality demonstrates that its progress toward meeting the diversion goal in the State Solid Waste Plan is substantially equivalent to that of municipalities complying with the requirements of subdivision (1)(A) of this subsection (g);

(C) the approved plan delineates an area where solid waste management services required by subdivision (1)(A), (B), or (C) of this subsection (g) are not required; and

~~(C)~~(D) in the delineated area, alternatives to the services, including ~~on-site~~ on-site management, required under subdivision (1)(A), (B), or (C) of this subsection (g) are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are convenient to residents of the delineated area.

(h) A transporter certified under this section that offers the collection of municipal solid waste may not charge a separate line item fee on a bill to a residential customer for the collection of mandated recyclables, provided that a transporter may charge a fee for all service calls, stops, or collections at a residential property and a transporter may charge a tiered or variable fee based on the size of the collection container provided to a residential customer or the amount of waste collected from a residential customer. A transporter certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of solid waste and may adjust the charge for the collection of solid waste. A transporter certified under this section that offers the collection of solid waste may charge a separate fee for the collection of leaf and yard residuals or food residuals from a residential customer.

* * * Solid Waste Infrastructure Advisory Committee * * *

Sec. 7. SOLID WASTE INFRASTRUCTURE ADVISORY COMMITTEE

(a) The Secretary of Natural Resources shall convene a Solid Waste Infrastructure Advisory Committee to review the current solid waste management infrastructure in the State, evaluate the sufficiency of existing solid waste management infrastructure to meet the requirements of subsection 6605(j) of this title, and recommend development or construction of new solid waste management infrastructure in the State.

(b) The Solid Waste Infrastructure Advisory Committee shall be composed of the Secretary of Natural Resources or his or her designee and the following members, to be appointed by the Secretary of Natural Resources:

(1) three representatives of the solid waste management districts or other solid waste management entities in the State;

(2) one representative of a solid waste collector that owns or operates a material recovery facility;

(3) two representatives of solid waste commercial haulers, provided that one of the commercial haulers shall serve rural or underpopulated areas of the State;

(4) one representative of recyclers of food residuals or leaf and yard residuals; and

(5) one Vermont institution or business subject to the requirements under subsection 6605(j) of this title for the management of food residuals.

(c) The Solid Waste Infrastructure Advisory Committee shall:

(1) review the existing systems analysis of the State waste stream to determine whether the existing solid waste management facilities operating in the State provide sufficient services to comply with the requirements of subsection 6605(j) of this title, and meet any demand for services;

(2) summarize the locations or service sectors where the State lacks sufficient infrastructure or resources to comply with the requirements of and demand generated by subsection 6605(j) of this title, including the infrastructure necessary in each location;

(3) estimate the cost of constructing the necessary infrastructure identified under subdivision (2) of this subsection; and

(4) review options for generating the revenue sufficient to fund the costs of constructing necessary infrastructure.

(d) Report. On or before January 15, 2015, the Solid Waste Infrastructure Advisory Committee shall submit to the Senate and House Committees on Natural Resources and Energy a report that includes the information and data developed under subsection (c) of this section.

* * * Vermont Green Up Checkoff * * *

Sec. 7a. 32 V.S.A. § 5862f is added to read:

§ 5862f. VERMONT GREEN UP CHECKOFF

(a) Returns filed by individuals shall include, on a form prescribed by the Commissioner of Taxes, an opportunity for the taxpayer to designate funds to Vermont Green Up, Inc.

(b) Amounts so designated shall be deducted from refunds due to, or overpayments made by, the designating taxpayers. All amounts so designated and deducted shall be deposited in an account by the Commissioner of Taxes for payment to Vermont Green Up, Inc. If at any time after the payment of amounts so designated to the account it is determined that the taxpayer was not entitled to all or any part of the amount so designated, the Commissioner may assess, and the account shall then pay to the Commissioner, the amount received, together with interest at the rate prescribed by section 3108 of this title, from the date the payment was made until the date of repayment.

(c) The Commissioner of Taxes shall explain to taxpayers the purposes of the account and how to contribute to it. The Commissioner shall make available to taxpayers the annual income and expense report of Vermont Green Up, Inc. and shall provide notice in the instructions for the State individual income tax return that the report is available at the Department of Taxes.

(d) If amounts paid with respect to a return are insufficient to cover both the amount owed on the return under this chapter and the amount designated by the taxpayer as a contribution to Vermont Green Up, Inc., the payment shall first be applied to the amount owed on the return under this chapter and the balance, if any, shall be deposited in the account.

(e) Nothing in this section shall be construed to require the Commissioner to collect any amount designated as a contribution to Vermont Green Up, Inc.

* * * Effective Date * * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2014, except that Sec. 7a (Vermont Green Up Checkoff) shall take effect on January 1, 2015 and apply to returns filed after that date.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Hartwell moved that the Senate concur in the House proposal of amendment with an amendment as follows:

First: In Sec. 2, 10 V.S.A. § 6605m, in subdivision (a)(1), by striking out “treated or painted wood” and inserting in lieu thereof plywood, and oriented strand board.

Second: By striking out Sec. 7a (Greenup Checkoff) in its entirety.

Which was agreed to.

Proposal of Amendment; Bill Ordered to Lie

H. 661.

House bill entitled:

An act relating to exhumation requirements and notice.

Was taken up.

Thereupon, pending third reading of the bill, Senator Benning moved to amend the Senate proposal of amendment by striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 18 V.S.A. § 5212 is amended to read:

§ 5212. PERMIT TO REMOVE DEAD BODIES; NOTICE

* * *

(b) An applicant for a removal permit shall publish notice of his or her intent to remove the remains. This notice shall be published for two successive weeks in a newspaper of general circulation in the municipality in which the body is interred or entombed. The notice shall include a statement that the spouse, child, parent, sibling, or descendant of the deceased, or that the ~~cemetery commissioner~~ Cemetery Commissioner or other municipal authority responsible for cemeteries in the municipality may object to the proposed removal by filing a complaint in the ~~probate division of the superior court~~ Probate Division of the Superior Court of the district in which the body is located as provided in section 5212a of this title. In addition to the published notice, an applicant for a removal permit shall notify directly, by certified mail, the town clerk in the municipality in which the body is interred or entombed and:

(1)(A) the surviving spouse of the deceased, if any;

(B) all surviving adult children of the deceased;

(C) all surviving parents of the deceased; and

(D) all surviving adult siblings of the deceased;

(2) any descendants of the deceased if the individuals listed in subdivisions (1)(A)-(D) of this subsection are nonexistent.

* * *

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Benning?, Senator Baruth moved that the bill be ordered to lie.

Consideration Resumed; Bill Amended; Bill Passed in Concurrence with Proposal of Amendment

H. 864.

Consideration was resumed on House bill entitled:

An act relating to capital construction and State bonding budget adjustment.

Thereupon, pending the question, Shall the bill pass in concurrence with proposal of amendment?, Senator Rodgers, requested and was granted leave to offer an amendment after third reading.

Thereupon, Senator Rodgers, moved that the bill be amended in Sec. 8, amending 2013 Acts and Resolves No. 51, Sec. 13, in subsection (g), in the first sentence, before "in Pittsford," by striking out "Center", and inserting in lieu thereof "Council", and by inserting after the first sentence the following:

As part of the development of the governance and planning model, it is the intent of the General Assembly that the Commissioner of Buildings and General Services reexamine any lease agreements entered into pursuant to authority granted by 2008 Acts and Resolves No. 200, Sec. 32(e) and 2009 Acts and Resolves No. 43, Sec. 48 conveying land and mineral rights located at the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Council.

Which was agreed to.

Thereupon, the question, Shall the bill pass in concurrence with proposal of amendment?, was decided in the affirmative.

Rules Suspended; House Proposals of Amendment Concurred In

S. 202.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House proposals of amendment to Senate bill entitled:

An act relating to the energy efficiency charge.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the as follows:

First: In Sec. 1, 30 V.S.A. § 209, in subdivision (d)(3)(B), by striking out the third sentence and inserting in lieu thereof a new third sentence to read:

In setting the amount of the charge and its allocation, the Board shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the State's transmission and distribution infrastructure; minimizing the costs of electricity; reducing Vermont's total energy demand, consumption, and expenditures; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and ~~the value of~~ targeting efficiency and conservation efforts to locations, markets, or customers where they may provide the greatest value.

Second: In Sec. 1, 30 V.S.A. § 209, in subdivision (d)(3)(C), in the first sentence, after "the use of fossil fuels for" by inserting space before "heating" and after "such as air source" by inserting or geothermal before "heat pumps".

Third: In Sec. 1, 30 V.S.A. § 209, in subdivision (d)(3)(C), in subdivision (i), after "electric ratepayers" by inserting as a whole.

Fourth: In Sec. 1, 30 V.S.A. § 209, in subdivision (d)(3)(C), by striking out subdivision (iii) and inserting in lieu thereof a new subdivision (iii) to read:

(iii) will result in a net reduction in State energy consumption and greenhouse gas emissions on a life-cycle basis and will not have a detrimental impact on the environment through other means such as release of refrigerants or disposal. In making a finding under this subdivision, the Board shall consider the use of the technology at all times of year and any likely new electricity demand created by such use;

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment Concurred In

S. 256.

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to the solemnization of a marriage by a Judicial Bureau hearing officer.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 5144 is amended to read:

§ 5144. PERSONS AUTHORIZED TO SOLEMNIZE MARRIAGE

(a) Marriages may be solemnized by a ~~supreme court justice~~ Supreme Court Justice, a ~~superior~~ Superior judge, a judge of ~~probate~~ Probate, an assistant judge, a justice of the peace, a magistrate, a Judicial Bureau hearing officer, an individual who has registered as an officiant with the Vermont ~~secretary of state~~ Secretary of State pursuant to section 5144a of this title, a member of the clergy residing in this ~~state~~ State and ordained or licensed, or otherwise regularly authorized thereunto by the published laws or discipline of the general conference, convention, or other authority of his or her faith or denomination, or by such a clergy person residing in an adjoining state or country, whose parish, church, temple, mosque, or other religious organization lies wholly or in part in this ~~state~~ State, or by a member of the clergy residing in some other state of the United States or in the Dominion of Canada, provided he or she has first secured from the ~~probate division of the superior court~~ Probate Division of the Superior Court in the unit within which the marriage is to be solemnized a special authorization, authorizing him or her to certify the marriage if the ~~probate~~ Probate judge determines that the circumstances make the special authorization desirable. Marriage among the Friends or Quakers, the Christadelphian Ecclesia, ~~and~~ the Baha'i Faith may be solemnized in the manner heretofore used in such societies.

* * *

Sec. 2. RECIPROCAL BENEFICIARIES; REPEAL; INTENT

(a) The stated purpose of the reciprocal beneficiaries is to provide two persons who are blood-relatives or related by adoption the opportunity to establish a consensual reciprocal beneficiaries relationship so they may receive the benefits and protections and be subject to the responsibilities that are granted to spouses in specific areas. Since enactment in 2000, no reciprocal beneficiary relationship has been established in Vermont.

(b) 15 V.S.A. chapter 25 is repealed (reciprocal beneficiaries).

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; Bills Messaged

On motion of Senator Baruth, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 208, S. 295, H. 552.

Adjournment

On motion of Senator Baruth, the Senate adjourned until ten o'clock in the morning.