

House Calendar

Thursday, April 09, 2015

93rd DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Action Postponed Until April 9, 2015

Senate Proposal of Amendment

H. 123

An act relating to mobile home parks, habitability standards, and compliance

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

Sec. 1. 10 V.S.A. § 6205 is amended to read:

§ 6205. ENFORCEMENT; PENALTIES

(a) ~~Any person who violates or fails to comply with this chapter or with any conditions, restrictions, or limitations contained in a permit issued under this chapter shall be fined not more than \$1,000.00 or imprisoned for not more than six months, or both~~ A mobile home park owner who violates or fails to comply with a provision of this chapter violates 9 V.S.A. § 2453.

(b) ~~The superior court for the county in which a violation of this chapter occurs shall have jurisdiction, on application by the department in the case of violations of sections 6236-6243 of this title, to enjoin and restrain the violation, but any election by the department to proceed under this subsection shall not limit or restrict the authority of the state to prosecute for the offense under subsection (a) of this section~~ If a mobile home park owner violates this chapter, the Department shall have the authority:

(1) to impose an administrative penalty of up to \$5,000.00 per violation;

(2) to bring a civil action for damages or injunctive relief, or both, in the Superior Court for the unit in which a violation occurred; and

(3) to refer a violation to the Attorney General or State's Attorney for enforcement pursuant to subsection (a) of this section.

(c)(1) A leaseholder may bring an action against the park owner for a violation of sections 6236-6243 of this title.

(2) The action shall be filed in ~~superior court~~ Superior Court for the unit in which the alleged violation occurred.

(3) No action may be commenced by the leaseholder unless the leaseholder has first notified the park owner of the violation by certified mail at least 30 days prior to bringing the action.

(4) During the pendency of an action brought by a leaseholder, the leaseholder shall pay rent in an amount designated in the lease, or as provided by law, which rental amount shall be deposited in an escrow account as directed by the ~~court~~ Court.

Sec. 2. 10 V.S.A. chapter 153, subchapter 3 is amended to read:

Subchapter 3. Habitability

* * *

§ 6262. PARK OWNER OBLIGATIONS; WARRANTY OF HABITABILITY; RULES

(a) In any lot rental agreement, the park owner shall be deemed to covenant and warrant to deliver over and maintain, throughout the period of the tenancy, premises which are safe, clean, and fit for human habitation. This warranty requires the park owner to provide adequate and reliable utility services, including safe electrical service, potable water, and sewage disposal to a location on each lot from which these utilities can be connected to the mobile home. The warranty also requires the park owner to assure that the roads, common areas, and facilities within the mobile home park are safe and fit for the purpose for which they were reasonably intended.

(b) ~~The department~~ Department, in cooperation with the ~~agency of natural resources, the department of public safety and the department of health~~ Agency of Natural Resources, the Department of Public Safety, and the Department of Health, shall, by rule, adopt standards for safety, cleanliness and fitness for human habitation regarding the rental of a mobile home lot within a mobile home park.

(c) No rental agreement shall contain any provision by which the leaseholder waives the protections of the implied warranty of habitability. Any such waiver shall be deemed contrary to public policy and shall be unenforceable and void.

§ 6263. HABITABILITY; LEASEHOLDER REMEDIES

(a)(1) If the mobile home park owner fails to comply with the obligation of habitability, the park owner shall be deemed to have notice of the noncompliance if the park owner receives actual notice of the noncompliance from the leaseholder, a governmental entity, or a qualified independent inspector.

(2) If the park owner has received notice from any of those sources and fails to make repairs within a reasonable time and the noncompliance materially affects health and safety, the leaseholder may pursue any of the following remedies:

~~(1)(A)~~ ~~Withhold~~ withhold payment of lot rent during the period of the noncompliance;

~~(2)(B)~~ ~~Obtain~~ obtain injunctive relief;

~~(3)(C)~~ ~~Recover~~ recover damages, costs, and reasonable ~~attorney~~ attorney's fees; or

~~(4)(D)~~ ~~Terminate~~ terminate the rental agreement on reasonable notice.

(b)(1) For purposes of subdivision (a)(2) of this section, a mobile home park owner's failure to maintain the roads within a mobile home park in a condition that reasonably ensures access by emergency vehicles shall be deemed noncompliance that materially affects health and safety.

(2) This subsection does not require a mobile home park owner to create a new road or other improvement, or to modify an existing road or other improvement, within an existing mobile home park.

(c) The remedies under this section are not available to a leaseholder if the noncompliance was caused by the negligent or deliberate act or omission of the leaseholder or of a person on the premises with the leaseholder's consent.

§ 6264. MINOR DEFECTS; REPAIR AND DEDUCT

(a)(1) If the park owner fails to repair a minor defect or noncompliance with this chapter or noncompliance with a material provision of the rental agreement within 30 days of receipt of written notice, the leaseholder may repair the defect or noncompliance and deduct from the rent the actual and reasonable cost, not to exceed one-half of one month's lot rent.

(2) No major work on water, sewer, or electrical systems may be performed under this section.

(3) The leaseholder shall provide the owner with written notice of the cost of the repair or service when the cost is deducted from the rent.

(4) The leaseholder shall be responsible for any damage caused by the repair or attempts to repair.

(b) The remedies under this section are not available to a leaseholder if the noncompliance was caused by the negligent or deliberate act or omission of the leaseholder or a person on the premises with the leaseholder's consent.

Sec. 3. 10 V.S.A. § 6237 is amended to read:

§ 6237. EVICTIONS

* * *

(e) A judgment order of eviction pursuant to this section shall provide that

a leaseholder shall sell a mobile home or remove a mobile home from the mobile home park:

(1) within three months from the date of execution of a writ of possession pursuant to 12 V.S.A. chapter 169; or

(2) within another period ordered by the court in its discretion.

(f) A leaseholder evicted pursuant to this section shall continue to be responsible for lot rent that accrues until the mobile home is sold or removed from the mobile home park.

(g) A park owner shall serve notice of eviction proceedings pursuant to this section and 12 V.S.A. chapter 169 to the leaseholder and to any occupants known to the park owner residing in the mobile home.

Sec. 4. 10 V.S.A. § 6248 is amended to read:

§ 6248. ABANDONMENT OF MOBILE HOME IN MOBILE HOME PARK

(a) A resident or owner of a mobile home in a mobile home park shall be deemed to have abandoned the mobile home if all the following conditions exist:

~~(1)(A) A reasonable person would believe that the mobile home is not occupied as a residence;~~

~~(2)(B) The the rent for the lot is at least 30 days delinquent; and~~

~~(3)(C) The the park owner has attempted to contact the resident or owner at the resident or owner's home, last known place of employment, and last known mailing address without success; or~~

(2) the owner of the mobile home has been evicted from the mobile home park pursuant to 10 V.S.A. § 6237 and the owner has failed to remove or sell the mobile home within three months after the execution of a writ of possession pursuant to 12 V.S.A. chapter 169 or as otherwise ordered by the court in the ejectment action.

~~(b) Abandonment of a mobile home shall be deemed to be a substantial violation of the lease terms and may result in immediate eviction proceedings.~~

~~(e) A mobile home park owner may not commence an action pursuant to section 6249 of this title to sell an abandoned mobile home on which there are delinquent property taxes until 20 days after the date the park owner sends notice of the park owner's intent to commence the action to the town clerk and the tax collector of the town in which the mobile home is located by certified mail, return receipt requested.~~

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

(For text see House Journal 3/18/15)

NEW BUSINESS

Third Reading

H. 76

An act relating to the requirement of mandatory binding arbitration and to the elimination of strikes and imposed contracts in connection with collective bargaining for teachers' and school administrators' contracts

Favorable with Amendment

S. 115

An act relating to expungement of convictions based on conduct that is no longer criminal

Rep. Nuovo of Middlebury, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

* * *

(4) "Qualifying crime" means:

(A) a misdemeanor offense which is not a listed crime as defined in subdivision 5301(7) of this title, an offense involving sexual exploitation of children in violation of chapter 64 of this title, an offense involving violation of a protection order in violation of section 1030 of this title, a prohibited act as defined in section 2632 of this title, or a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief; ~~or~~

(C) a violation of section 2501 of this title related to grand larceny; or

(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title.

Sec. 2. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,
POSTCONVICTION; PROCEDURE

(a)(1) ~~A person who was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence may file a petition with the Court requesting expungement or sealing of the criminal history record related to the conviction.—The State’s Attorney or Attorney General shall be the respondent in the matter. if:~~

(A) the person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence; or

(B) the person was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense.

(2) The State’s Attorney or Attorney General shall be the respondent in the matter.

(3) The Court shall grant the petition without hearing if the petitioner and the respondent stipulate to the granting of the petition. The respondent shall file the stipulation with the Court, and the Court shall issue the petitioner a certificate and provide notice of the order in accordance with this section.

* * *

(d) The Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

(A) The petitioner committed the qualifying crime or crimes prior to reaching 25 years of age.

(B) At least five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously.

(C) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of the qualifying crime.

(D) The person successfully completed a term of public service or programming, independent of any service or programming ordered as a part of the petitioner’s sentence for the conviction, and as approved by the Community Justice Network of Vermont, which may include:

(i) community service hours completed without compensation, reparation of harm to the victim, or education regarding ways not to reoffend, or a combination of the three;

(ii) at least one year of service in the U.S. Armed Forces, followed by an honorable discharge or continued service in good standing; or

(iii) at least one year of service in AmeriCorps or another local, state, national, or international service program, followed by successful completion of the program or continued service in good standing.

(E) Any restitution ordered by the Court for any crime of which the person has been convicted has been paid in full.

(F) The Court finds that expungement of the criminal history record serves the interest of justice.

(e) For petitions filed pursuant to subdivision (a)(1)(B) of this section, the Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

(1) At least one year has elapsed since the completion of any sentence or supervision for the offense, whichever is later.

(2) Any restitution ordered by the Court has been paid in full.

(3) The Court finds that expungement of the criminal history record serves the interest of justice.

(f) For petitions filed pursuant to subdivision (a)(1)(B) of this section for a conviction for possession of a regulated drug under 18 V.S.A. chapter 84, subchapter 1 in an amount that is no longer prohibited by law or for which criminal sanctions have been removed:

(1) The petitioner shall bear the burden of establishing that his or her conviction was based on possessing an amount of regulated drug that is no longer prohibited by law or for which criminal sanctions have been removed.

(2) There shall be a rebuttable presumption that the amount of the regulated drug specified in the affidavit of probable cause associated with the petitioner's conviction was the amount possessed by the petitioner.

(g) Prior to granting an expungement or sealing under this section for petitions filed pursuant to subdivision 7601(4)(D) of this title, the Court shall make a finding that the conduct underlying the conviction under section 1201 of this title did not constitute a burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title. The petitioner shall bear the burden of establishing this fact.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 11-0-0)

(For text see Senate Journal 3/17/15)

Senate Proposal of Amendment

H. 86

An act relating to the Uniform Interstate Family Support Act

The Senate proposes to the House to amend the bill in Sec. 2, 15B V.S.A. § 1801(c), by striking out the word “extradition” and inserting in lieu thereof the word rendition

(No House Amendments)

H. 256

An act relating to disposal of property following an eviction, and fair housing and public accommodations

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

First: By striking out Sec. 1, 12 V.S.A. § 4854a, in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 12 V.S.A. § 4854a is amended to read:

§ 4854a. PROPERTY OF TENANT REMAINING ON PREMISES AFTER
EVICTION

(a) A landlord may dispose of any personal property remaining in a dwelling unit or leased premises without notice or liability to the tenant or owner of the personal property:

(1) 15 days after a writ of possession is served pursuant to this chapter or upon the landlord being legally restored to possession of the dwelling unit or leased premises pursuant to this chapter, whichever is later; or

(2) in the case of an eviction brought pursuant to 10 V.S.A. chapter 153, 40 days after a writ of possession issued for failure to pay rent into court pursuant to subsection 4853a(h) of this title is served or upon the landlord being legally restored to possession of the leased premises by a writ of possession issued for failure to pay rent into court pursuant to subsection 4853a(h) of this title, whichever is later.

(b) Notwithstanding subsection (a) of this section, if the court stays the execution of a writ of possession issued pursuant to this chapter, then a landlord may dispose of any personal property remaining in a dwelling unit or leased premises without notice or liability to the tenant or owner of the personal property ~~five days~~ one day after the landlord is legally restored to possession of the dwelling unit or leased premises.

Second: By striking out Sec. 3, effective dates, in its entirety and inserting

a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATES

(a) Sec. 1 shall take effect on July 1, 2015, and shall apply to ejection actions beginning on or after that date.

(b) This section and Sec. 2 shall take effect on passage.

(No House Amendments)

Action Postponed Until April 10, 2015

Favorable with Amendment

J.R.H. 8

Joint resolution relating to military suicides

Rep. Walz of Barre City, for the Committee on **General, Housing & Military Affairs**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Whereas, according to a January 16, 2015, report in the publication *Military Times*, nearly two-thirds of the military personnel who committed suicide in 2013 had seen a doctor within three months before taking their own lives, but fewer than one-half had a mental health diagnosis, and fewer than one-third expressed any intention to hurt themselves, and

Whereas, according to an August 2014 dispatch from the U.S. Department of Veterans Affairs (VA), 8,000 veterans commit suicide annually, and this averages to 22 per day, and

Whereas, the General Assembly acknowledges and appreciates the VA's efforts to increase its resources for mental health counseling and support, including working to improve access to these services for veterans who meet the national criteria and who live more than 40 miles from a VA medical facility, and

Whereas, the VA has a toll-free military crisis line (1-800-273-8255) and website (veteranscrisisline.net) that are accessible 24 hours per day, seven days per week to service members and families for suicide prevention purposes, and

Whereas, despite the VA's and the U.S. Department of Defense's (DOD) suicide prevention efforts, including Congress's recent adoption of the Clay Hunt Suicide Prevention for American Veterans Act, the suicide rate for our men and women who have served in the U.S. Armed Forces remains far too high, and

Whereas, military families have expressed concerns about the consistent

staffing of crisis lines, access to therapy options and effective medications, as well as delays in obtaining mental health counseling appointments, and

Whereas, the DOD's anti-stigma campaign, "Real Warriors, Real Battles, Real Strength," features real service members who have reached out for support or sought treatment for invisible wounds and are continuing to maintain successful military and civilian careers, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly recognizes the need for greater public awareness of the military and veteran suicide rate, and be it further

Resolved: That the General Assembly supports the continued efforts of the VA, DOD, the Vermont National Guard, Vermont Vet-to-Vet, and other public and private organizations to address mental health issues, and be it further

Resolved: That the General Assembly supports the Vermont Veterans Legal Assistance Project in its work helping veterans review and appeal unfavorable discharges, possibly due to behavioral problems related to post-traumatic stress disorder (PTSD), traumatic brain injury (TBI) or both, in order to qualify for, or gain access to, VA services, and be it further

Resolved: That the General Assembly supports that federal policies be established under the authority of the Clay Hunt Suicide Prevention for American Veterans Act as follows:

(1) establish, support, and enhance peer support outreach programs for veterans; and

(2) train mental health counselors around military acronyms and situations specific to military life to help the veteran feel more comfortable when being treated for a mental health issue, and be it further

Resolved: That the General Assembly requests that the Secretary of Veteran Affairs designate Vermont as one of the five pilot program locations identified in the Clay Hunt Suicide Prevention for American Veterans Act, and be it further

Resolved: That the General Assembly strongly encourages the Armed Forces and VA to establish, support and enhance peer support outreach programs for the families of veterans, and be it further

Resolved: That the General Assembly strongly encourages the U.S. Armed Forces to require a period of reintegration for returning veterans that maintains unit cohesion, and be it further

Resolved: That the General Assembly urges the Vermont National Guard to increase educational efforts related to mental health care services in order to

reduce both the existing stigma among military personnel and veterans to seek mental health assistance and to lower future suicide rates, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to U.S. Secretary of Veterans Affairs Robert A. McDonald, U.S. Secretary of Defense Ash Carter, the Vermont Congressional Delegation, Commissioner of Mental Health Paul Dupre, Vermont Adjutant General Major General Steven A. Cray, and to the Vermont Office of Veterans Affairs.

(**Committee Vote: 8-0-0**)

NOTICE CALENDAR

Favorable with Amendment

S. 71

An act relating to governance of the Vermont State Colleges

Rep. Cupoli of Rutland City, for the Committee on **Education**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 1, in 16 V.S.A. chapter 72, by striking out § 2185 (determination of residency for tuition purposes) in its entirety and inserting in lieu thereof the following:

§ 2185. DETERMINATION OF VETERAN AND SERVICE MEMBER RESIDENCY FOR TUITION PURPOSES

(a) The Board of Trustees shall adopt policies related to residency for tuition purposes, consistent with State and federal requirements.

(b) Any member of the U.S. Armed Forces of the United States on active duty who is transferred to Vermont for duty other than for the purpose of education shall, upon transfer and for the period of active duty served in Vermont, be considered a resident for in-state tuition purposes at the start of the next semester or academic period.

Second: In Sec. 1, in 16 V.S.A. § 2171, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) There is created as a part of the educational system of the State of Vermont a public corporation to be known as “Vermont State Colleges,” which Colleges” or any other name that the Board of Trustees, established under section 2172 of this chapter, selects at a meeting duly warned for that purpose, provided that the word “Vermont” shall appear in the selected name. The Corporation shall plan, supervise, administer, and operate facilities for education at the postsecondary level supported in whole or in substantial part

with State funds; however, while the Corporation shall maintain cooperative relations with the University of Vermont and State Agricultural College, nothing in this chapter shall give the ~~corporation~~ Corporation any responsibility for the planning, supervision, administration, or operation of the University.

Third: By adding a new section to be Sec. 2 to read:

Sec. 2. EFFECT OF AMENDMENT

In Sec. 1 of this act, 16 V.S.A. § 2171(a) is amended by authorizing the Board of Trustees established under 16 V.S.A. § 2172 to select a different name for the Corporation presently known as “Vermont State Colleges.” Notwithstanding any name that the Board of Trustees selects for the Corporation pursuant to 16 V.S.A. § 2171(a):

(1) All legal instruments executed in the name of the Vermont State Colleges or in any subsequent name selected under 16 V.S.A. § 2171(a) shall be legally binding on the Corporation.

(2) All statutory references to “Vermont State Colleges” shall mean the Corporation created under 16 V.S.A. § 2171(a).

and by renumbering the remaining sections to be numerically correct.

(Committee vote: 10-0-1)

(For text see Senate Journal 2/26/15)

Senate Proposal of Amendment to House Proposal of Amendment

S. 98

An act relating to captive insurance companies

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

By striking out the *First* proposal of amendment in its entirety.

(For text see House Journal 3/27/15)

Consent Calendar

Concurrent Resolutions

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary’s office and/or the House Clerk’s office,

respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

H.C.R. 99

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S.C.R. 15

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