

# Journal of the House

Tuesday, February 24, 2015

At ten o'clock in the forenoon the Speaker called the House to order.

## Devotional Exercises

Devotional exercises were conducted by Pastor Brad Keller of Journey Church, Bethel and Rutland, Vt.

## Pledge of Allegiance

**Page Alexandra Contreras-Montesano of Burlington** led the House in the Pledge of Allegiance.

## Rules Suspended; House Bills Introduced

Pending first reading of the bills, on motion of **Rep. Savage of Swanton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

### H. 272

By the committee on Ways & Means,

An act relating to current use and technical tax changes;

Under the rule, placed on the Calendar for notice.

### H. 273

By Reps. Van Wyck of Ferrisburgh, Batchelor of Derby, Beyor of Highgate, Browning of Arlington, Canfield of Fair Haven, Christie of Hartford, Devereux of Mount Holly, Fiske of Enosburgh, Hebert of Vernon, Hubert of Milton, Morrissey of Bennington, Pearce of Richford, Russell of Rutland City, Savage of Swanton, Shaw of Derby and Willhoit of St. Johnsbury,

House bill, entitled

An act relating to drug-free workplace workers' compensation premium reductions;

To the committee on Commerce & Economic Development.

### H. 274

By Reps. Baser of Bristol, Carr of Brandon, Higley of Lowell, Juskiewicz of Cambridge, O'Sullivan of Burlington, Shaw of Pittsford, Sibia of Dover,

Strong of Albany and Van Wyck of Ferrisburgh,

House bill, entitled

An act relating to funding the Community High School of Vermont;

To the committee on Education.

**H. 275**

By Rep. McFaun of Barre Town,

House bill, entitled

An act relating to promoting business growth and economic development in Vermont;

To the committee on Commerce & Economic Development.

**H. 276**

By Rep. Klein of East Montpelier,

House bill, entitled

An act relating to greater weight to municipal and regional plans in the siting of electric generation facilities;

To the committee on Natural Resources & Energy.

**H. 277**

By Reps. Pearson of Burlington, Clarkson of Woodstock, Davis of Washington, Deen of Westminster, Donovan of Burlington, O'Sullivan of Burlington, Stevens of Waterbury, Toleno of Brattleboro, Troiano of Stannard and Young of Glover,

House bill, entitled

An act relating to regulation and taxation of marijuana;

To the committee on Judiciary.

**H. 278**

By Reps. Conquest of Newbury, Christie of Hartford and Stevens of Waterbury,

House bill, entitled

An act relating to selection of the Adjutant and Inspector General;

To the committee on General, Housing & Military Affairs.

**H. 279**

By Reps. Troiano of Stannard, Bartholomew of Hartland, Berry of Manchester, Bissonnette of Winooski, Chesnut-Tangerman of Middletown Springs, Christie of Hartford, Gonzalez of Winooski, Lalonde of South Burlington, Lefebvre of Newark, Lippert of Hinesburg, Lucke of Hartford, Martel of Waterford, O'Sullivan of Burlington, Patt of Worcester, Ryerson of Randolph, Stevens of Waterbury, Sullivan of Burlington, Toleno of Brattleboro, Townsend of South Burlington, Viens of Newport City, Walz of Barre City, Willhoit of St. Johnsbury, Woodward of Johnson, Yantachka of Charlotte, Young of Glover and Zagar of Barnard,

House bill, entitled

An act relating to recording of criminal and civil offenses by law enforcement officers;

To the committee on Government Operations.

**H. 280**

By Rep. McCormack of Burlington,

House bill, entitled

An act relating to amending the State Board of Education rules on school lighting requirements;

To the committee on Education.

**H. 281**

By Reps. Morrissey of Bennington and Corcoran of Bennington,

House bill, entitled

An act relating to the dedication of the Bennington Welcome Center to former U.S. Senator Jim Jeffords;

To the committee on Transportation.

**H. 282**

By Rep. Sweaney of Windsor,

House bill, entitled

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

To the committee on Government Operations.

**H. 283**

By Reps. Manwaring of Wilmington, Long of Newfane, Sibilina of Dover and Toleno of Brattleboro,

House bill, entitled

An act relating to removing capital construction costs related to joint action from education spending when calculating excess spending;

To the committee on Education.

**H. 284**

By Reps. Manwaring of Wilmington, Sibilina of Dover and Toleno of Brattleboro,

House bill, entitled

An act relating to using Education Fund monies for purposes other than local prekindergarten through grade 12 education;

To the committee on Education.

**H. 285**

By Reps. Dickinson of St. Albans Town, Cupoli of Rutland City, Juskiewicz of Cambridge, Krebs of South Hero, Morrissey of Bennington, Russell of Rutland City, Strong of Albany and Trieber of Rockingham,

House bill, entitled

An act relating to the Vermont Governor's Diploma;

To the committee on Education.

**H. 286**

By Rep. McCormack of Burlington,

House bill, entitled

An act relating to prohibiting incentives for heat pumps if electric resistance heat is to be installed;

To the committee on Natural Resources & Energy.

**H. 287**

By Reps. Hooper of Montpelier, Bartholomew of Hartland, Berry of Manchester, Burke of Brattleboro, Carr of Brandon, Chesnut-Tangerman of Middletown Springs, Christie of Hartford, Cole of Burlington, Dakin of Chester, Deen of Westminster, Donovan of Burlington, Ellis of Waterbury,

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Feltus of Lyndon, Frank of Underhill, French of Randolph, Head of South Burlington, Kitzmiller of Montpelier, Krowinski of Burlington, Lanpher of Vergennes, Lenes of Shelburne, Lewis of Berlin, Macaig of Williston, Masland of Thetford, McCormack of Burlington, McCullough of Williston, McFaun of Barre Town, Miller of Shaftsbury, Mrowicki of Putney, O'Sullivan of Burlington, Partridge of Windham, Patt of Worcester, Pearson of Burlington, Poirier of Barre City, Ryerson of Randolph, Stevens of Waterbury, Stuart of Brattleboro, Sullivan of Burlington, Till of Jericho, Toleno of Brattleboro, Townsend of South Burlington, Troiano of Stannard, Walz of Barre City and Yantachka of Charlotte,

House bill, entitled

An act relating to increasing delivery of weatherization and thermal energy efficiency services to Vermonters;

To the committee on Natural Resources & Energy.

**H. 288**

By Reps. Manwaring of Wilmington and Sibia of Dover,

House bill, entitled

An act relating to incentives to use and maintain closed school buildings;

To the committee on Government Operations.

**H. 289**

By Reps. Keenan of St. Albans City, Beyor of Highgate, Connor of Fairfield, Dickinson of St. Albans Town, Fiske of Enosburgh, Gamache of Swanton, Parent of St. Albans City, Pearce of Richford and Savage of Swanton,

House bill, entitled

An act relating to generic substitution for biological products;

To the committee on Human Services.

**H. 290**

By Reps. Christie of Hartford, Clarkson of Woodstock, Devereux of Mount Holly, Sweaney of Windsor, Higley of Lowell, Hubert of Milton, Lewis of Berlin and Townsend of South Burlington,

House bill, entitled

An act relating to requiring minimum student-to-adult ratios in public schools and school districts;

To the committee on Education.

**H. 291**

By Reps. Manwaring of Wilmington, Sibilia of Dover and Toleno of Brattleboro,

House bill, entitled

An act relating to using Education Fund monies to provide health care services in public schools;

To the committee on Appropriations.

**H. 292**

By Rep. Mrowicki of Putney,

House bill, entitled

An act relating to child care subsidy market rates;

To the committee on Human Services.

**H. 293**

By Reps. Poirier of Barre City, Christie of Hartford, Donovan of Burlington, Kitzmiller of Montpelier, Lenes of Shelburne, Macaig of Williston, Masland of Thetford, McCullough of Williston, McFaun of Barre Town, Till of Jericho, Toleno of Brattleboro and Yantachka of Charlotte,

House bill, entitled

An act relating to compliance testing of tobacco licensees;

To the committee on General, Housing & Military Affairs.

**H. 294**

By Rep. Mrowicki of Putney,

House bill, entitled

An act relating to the right to appeal a child abuse or neglect determination made by the Department for Children and Families;

To the committee on Human Services.

**H. 295**

By Reps. McCormack of Burlington, Donovan of Burlington, Krowinski of

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Burlington, Sullivan of Burlington and Yantachka of Charlotte,

House bill, entitled

An act relating to the use of disposable carryout bags;

To the committee on Natural Resources & Energy.

**H. 296**

By Reps. Clarkson of Woodstock and Deen of Westminster,

House bill, entitled

An act relating to sport shooting ranges;

To the committee on Fish, Wildlife & Water Resources.

**H. 297**

By Reps. Wright of Burlington, Lenex of Shelburne, Bartholomew of Hartland, Batchelor of Derby, Beck of St. Johnsbury, Browning of Arlington, Fields of Bennington, Long of Newfane, Macaig of Williston, Manwaring of Wilmington, Myers of Essex, Shaw of Pittsford and Toleno of Brattleboro,

House bill, entitled

An act relating to the sale of ivory or rhinoceros horn;

To the committee on Fish, Wildlife & Water Resources.

**H. 298**

By Reps. Macaig of Williston, Christie of Hartford, Kitzmiller of Montpelier, Lenex of Shelburne, Lippert of Hinesburg, McCullough of Williston, McFaun of Barre Town, Mrowicki of Putney, Smith of New Haven, Stevens of Waterbury and Yantachka of Charlotte,

House bill, entitled

An act relating to the repeal of the delinquent property tax penalty;

To the committee on Ways & Means.

**H. 299**

By Reps. Till of Jericho, Berry of Manchester, Carr of Brandon, Cole of Burlington, Dakin of Chester, Emmons of Springfield, Evans of Essex, Frank of Underhill, French of Randolph, Lanpher of Vergennes, Lenex of Shelburne, Martin of Wolcott, Masland of Thetford, McCormack of Burlington, Miller of Shaftsbury, Mrowicki of Putney, Nuovo of Middlebury, O'Sullivan of Burlington, Poirier of Barre City, Rachelson of Burlington, Russell of Rutland City, Sullivan of Burlington, Walz of Barre City and Yantachka of Charlotte,

House bill, entitled

An act relating to the implementation of trauma screening and the prevention and treatment of adverse childhood experiences;

To the committee on Health Care.

### **H. 300**

By Reps. Parent of St. Albans City, Beyor of Highgate, Branagan of Georgia, Connor of Fairfield, Dickinson of St. Albans Town, Fiske of Enosburgh, Gamache of Swanton, Keenan of St. Albans City, Lewis of Berlin, Morrissey of Bennington, Myers of Essex, Pearce of Richford and Savage of Swanton,

House bill, entitled

An act relating to the prescription, maintenance, and use of epinephrine auto-injectors;

To the committee on Human Services.

### **H. 301**

By Rep. Mrowicki of Putney,

House bill, entitled

An act relating to the donation of prepared foods;

To the committee on Human Services.

### **H. 302**

By Reps. Christie of Hartford, Botzow of Pownal, Brennan of Colchester, Burditt of West Rutland, Cupoli of Rutland City, Dakin of Chester, Head of South Burlington, Hooper of Montpelier, Komline of Dorset, Lippert of Hinesburg, Martin of Wolcott, McCormack of Burlington, Mrowicki of Putney, Sweaney of Windsor, Townsend of South Burlington, Troiano of Stannard, Van Wyck of Ferrisburgh and Zagar of Barnard,

House bill, entitled

An act relating to regulating the use of drones;

To the committee on Government Operations.

### **Judicial Nominating Board Elected**

The Speaker nominated the following named members to the Judicial Nominating Board:



**Rep. Grad of Moretown**  
**Rep. Lippert of Hinesburg**  
**Rep. Komline of Dorset**

Which was voted and agreed upon.

**Third Reading; Bill Passed**

**H. 240**

House bill, entitled

An act relating to miscellaneous technical corrections to laws governing motor vehicles, motorboats, and other vehicles

Was taken up, read the third time and passed.

**Bill Read Second Time; Third Reading Ordered**

**H. 256**

**Rep. Stevens of Waterbury** spoke for the committee on General, Housing & Military Affairs.

House bill entitled

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

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Proposal of Amendment Agreed to; Third Reading Ordered**

**S. 6**

**Rep. Viens of Newport City**, for the committee on Judiciary, to which had been referred Senate bill, entitled

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

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 1501 is amended to read:

§ 1501. ESCAPE AND ATTEMPTS TO ESCAPE

\* \* \*

(b)(1) A person ~~who~~ shall not, while in lawful custody:

~~(1) fails (A) fail~~ to return from work release to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with 28 V.S.A. § 753;

~~(2) fails (B) fail~~ to return from furlough to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with 28 V.S.A. § 808, 808a, 808b, or 808c;

~~(3) escapes or attempts (C) escape or attempt~~ to escape while on release from a correctional facility to do work in the service of such facility or of the Department of Corrections in accordance with 28 V.S.A. § 758; or

~~(4) escapes or attempts (D) escape elope or attempt to escape elope~~ from the Vermont State Hospital, or its successor in interest Psychiatric Care Hospital or a participating hospital, when confined by court order pursuant to chapter 157 of this title, or when transferred there pursuant to 28 V.S.A. § 703 and while still serving a sentence, ~~shall be imprisoned for not more than five years or fined not more than \$1,000.00, or both.~~

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

\* \* \*

(d) As used in this section:

\* \* \*

~~(3) "Successor in interest" shall mean the mental health hospital owned and operated by the State that provides acute inpatient care and replaces the Vermont State Hospital. [Repealed.]~~

Sec. 2. 13 V.S.A. § 5321 is amended to read:

§ 5321. APPEARANCE BY VICTIM

\* \* \*

(c) In accordance with ~~court~~ Court rules, at the sentencing hearing, the ~~court~~ Court shall ask if the victim is present and, if so, whether the victim would like to be heard regarding sentencing. ~~It~~ In imposing sentence, the ~~court~~ Court shall consider any views offered at the hearing by the victim. ~~if~~ If the victim is not present, the ~~court~~ Court shall ask whether the victim has expressed, either orally or in writing, views regarding sentencing and shall take those views into consideration in imposing sentence.

(d) At or before the sentencing hearing, the prosecutor's office shall instruct the victim of a listed crime, in all cases where the ~~court~~ Court imposes a sentence which includes a period of incarceration, that a sentence of incarceration is to the custody of the ~~commissioner of corrections~~ Commissioner of Corrections and that the ~~commissioner of corrections~~ Commissioner of Corrections has the authority to affect the actual time the defendant shall serve in incarceration through good time credit, furlough, work-release, and other early release programs. ~~in~~ In addition, the prosecutor's office shall explain the significance of a minimum and maximum sentence to the victim and shall also explain the function of parole and how it may affect the actual amount of time the defendant may be incarcerated.

\* \* \*

Sec. 3. 13 V.S.A. § 5574 is amended to read:

§ 5574. BURDEN OF PROOF; JUDGMENT; DAMAGES

(a) A claimant shall be entitled to judgment in an action under this subchapter if the claimant establishes each of the following by clear and convincing evidence:

\* \* \*

(2)(A) ~~The~~ the complainant's conviction was reversed or vacated, the complainant's information or indictment was dismissed, or the complainant was acquitted after a second or subsequent trial; or

(B) ~~The~~ the complainant was pardoned for the crime for which he or she was sentenced.

\* \* \*

Sec. 4. 33 V.S.A. § 5308(a)(4) is amended to read:

(4) The custodial parent, guardian, or ~~guardian~~ custodian has abandoned the child.

Sec. 5. 2014 Acts and Resolves No. 126, Sec. 7 is amended to read:

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2014, and shall apply to restitution orders issued after that date; provided, however, that notwithstanding 1 V.S.A. § 214, Secs. 1, 3, 4, 5, and 6 shall also apply retroactively to restitution orders issued on or before July 1, 2014.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

**Committee Relieved of Consideration  
and Bill Committed to Other Committee**

**H. 202**

**Rep. Zagar of Barnard** moved that the committee on Agriculture & Forest Products be relieved of House bill, entitled

An act relating to an annual permit for overdimension logging and forestry equipment

And that the bill be committed to the committee on Transportation, which was agreed to.

**Rules Suspended; Bill Committed to Committee**

**H. 35**

On motion of **Rep. Partridge of Windham**, the rules were suspended and House bill, entitled

An act relating to An act relating to improving the quality of State waters;

Appearing on the Calendar for notice, was taken up for immediate consideration.

Pending second reading of the bill, **Rep. Partridge of Windham**, moved that the bill be committed to the committee on Agriculture & Forest Products, which was agreed to.

**Remarks Journalized**

On motion of **Rep. Willhoit of St. Johnsbury**, the following remarks by **Rep. Dame of Essex** were ordered printed in the Journal:

“Mr. Speaker:

I have an important announcement. On Sunday Feb 22nd at 3:15am my son Victor was born weighing 7lbs 1oz and measuring 20.5 inches long. He and his mother are doing well and are expected home this evening.”

**Message from the Senate No. 23**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

**S. 23.** An act relating to required disclosures for workers' compensation settlements.

**S. 92.** An act relating to mediation in medical malpractice actions.

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

### **Adjournment**

At ten o'clock and forty-two minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.