

Journal of the House

Thursday, February 11, 2016

Rep. Copeland-Hanzas in Chair.

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Amy Pitton, Bethany Church, Montpelier, Vt.

Message from the Senate No. 15

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 adopted joint resolutions of the following titles:

J.R.S. 40. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

J.R.S. 41. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2016.

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

House Bill Introduced

H. 846

By Reps. Beck of St. Johnsbury and Willhoit of St. Johnsbury,

House bill, entitled

An act relating to making changes to the calculation of the statewide education property tax;

To the committee on Ways & Means.

Joint Resolution Adopted in Concurrence

J.R.S. 40

By Senator Campbell,

J.R.S. 40. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, February 18, 2016, at ten o'clock and thirty minutes in the forenoon to elect two legislative Trustees of the Vermont State Colleges Corporation to serve a four year term commencing March 1, 2016, and expiring on March 1, 2020. In case election of all such Trustees shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such Trustees are elected.

Was taken up read and adopted in concurrence.

Joint Resolution Adopted in Concurrence

J.R.S. 41

By Senator Campbell,

J.R.S. 41. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2016.

Whereas, in recent years it has become increasingly necessary to shorten the length of time spent by the General Assembly in joint session for the election of various officials, and

Whereas, if elections for multiple vacancies were to be decided by a plurality vote, then a great savings of time can be effectuated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That, notwithstanding the current provisions of Joint Rule 10, and for this election only, the election of two legislative trustees of the Vermont State Colleges Corporation at a Joint Assembly to be held on February 18, 2016, shall be governed by the following procedure:

(1) All candidates for the office of Trustee shall be voted upon and decided on the same ballot; members may vote for any number of candidates up to and including the maximum number of vacancies to be filled, which in this case shall be two.

(2) The two candidates receiving the greater number of votes shall be declared elected to fill the two vacancies.

(3) In the event that the first balloting for the Trustee vacancies results in a tie vote for one or both of the two vacant positions, then voting shall continue on successive ballots for the unfilled position or positions until the vacancies have been filled by election declared of the two candidates receiving the greater number of votes.

Was taken up read and adopted in concurrence.

Message from the Senate No. 16

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 considered bills originating in the House of the following titles:

H. 187. An act relating to absence from work for health care and safety.

H. 611. An act relating to fiscal year 2016 budget adjustments.

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

Bill Amended; Third Reading Ordered

H. 533

Rep. LaLonde of South Burlington, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to victim notification

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 5305 is amended to read:

§ 5305. INFORMATION CONCERNING RELEASE FROM
~~CONFINEMENT~~ CUSTODY

(a) Victims, other than victims of acts of delinquency, and affected persons shall have the right to request notification by the agency having custody of the defendant before the defendant is released, including a release on bail or conditions of release, furlough or other community program, upon termination or discharge from probation, or whenever the defendant escapes, is recaptured, dies, or receives a pardon or commutation of sentence. Notice shall be given

to the victim or affected person as expeditiously as possible at the address or telephone number provided to the agency having custody of the defendant by the person requesting notice. Any address or telephone number so provided shall be kept confidential.

(b) If the defendant is released on conditions at arraignment, the prosecutor's office shall inform the victim of a listed crime of the conditions of release.

(c) If requested by a victim of a listed crime, the ~~department of corrections~~ Department of Corrections shall:

(1) at least 30 days before a parole board hearing concerning the defendant, inform the victim of the hearing and of the victim's right to testify before the parole board or to submit a written statement for the parole board to consider; and

(2) promptly inform the victim of the decision of the parole board, including providing to the victim any conditions attached to the defendant's release on parole.

Sec. 2. 13 V.S.A. § 5314 is amended to read:

§ 5314. INFORMATION FROM LAW ENFORCEMENT AGENCY

* * *

(b) Information to victims of listed crimes. As soon as practicable, the law enforcement agency shall use reasonable efforts to give to the victim of a listed crime, as relevant, all of the following:

(1) Information as to the accused's identity unless inconsistent with law enforcement purposes.

(2) Information as to whether the accused has been taken into custody.

(3) The file number of the case and the name, office street address, and telephone number of the law enforcement officer currently assigned to investigate the case.

(4) The prosecutor's name, office street address, and telephone number.

(5) An explanation that no individual is under an obligation to respond to questions which may be asked outside a courtroom or deposition.

(6) Information concerning any bail or conditions of release imposed on the defendant by a judicial officer prior to arraignment or an initial court appearance.

Sec. 3. 13 V.S.A. § 5321 is amended to read:

§ 5321. APPEARANCE BY VICTIM

(a) The victim of a crime has the following rights in any sentencing proceedings concerning the person convicted of that crime, or in the event a proposed plea agreement filed with the court recommends a deferred sentence, at any change of plea hearing concerning the person charged with committing that crime:

(1) to be given advance notice by the prosecutor's office of the date of the proceedings; and

(2) to appear, personally, to express reasonably his or her views concerning the crime, the person convicted, and the need for restitution.

(b) ~~Sentencing~~ The change of plea hearing or sentencing shall not be delayed or voided by reason of the failure to give the victim the required notice or the failure of the victim to appear.

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

(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 imposes a sentence which includes a period of incarceration, that a sentence of incarceration is to the custody of the Commissioner of Corrections and that the 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 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.

(e) At or before a change of plea hearing where the plea agreement filed with the court proposes a deferred sentence, the prosecutor's office shall instruct the victim of a listed crime about the significance of a deferred sentence and the potential consequences of a violation of conditions imposed by the court. In addition, the prosecutor's office shall consult with the victim concerning any proposed probation conditions prior to the hearing.

(f) The prosecutor's office shall use all reasonable efforts to keep the victim informed and consult with the victim throughout the plea agreement negotiation process in any case involving a victim of a listed crime.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

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

Bill Amended; Third Reading Ordered

H. 608

Rep. Olsen of Londonderry, for the committee on Natural Resources & Energy, to which had been referred House bill, entitled

An act relating to solid waste management

Reported in favor of its passage when amended as follows:

First: In Sec. 1, 10 V.S.A. § 6605, in subsection (m), after the subsection designation and before "collected as part of" by striking out "Solid waste" and inserting in lieu thereof "Mandated recyclables, leaf and yard residuals, or food residuals"

Second: In Sec. 2, 10 V.S.A. § 6607a(g), in subdivision (4), after "of this subsection for" and before "collected as" by striking out "solid waste" and inserting in lieu thereof "mandated recyclables, leaf and yard residuals, or food residuals"

Third: In Sec. 3, 10 V.S.A. § 6621a, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) The landfill disposal ban under subdivisions (a)(9)–(11) of this section shall not apply to mandated recyclables, leaf and yard residuals, or food residuals collected as part of a litter collection event operated or administered by a nonprofit organization or municipality.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Natural Resources & Energy agreed to and third reading ordered.

Bill Amended; Third Reading Ordered**H. 622**

Rep. Mrowicki of Putney, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to obligations for reporting child abuse and neglect and cooperating in investigations of child abuse and neglect

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 4913 is amended to read:

§ 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL ACTION

* * *

(c) Any mandated reporter who reasonably suspects abuse or neglect of a child shall report in accordance with the provisions of section 4914 of this title within 24 hours of the time information regarding the suspected abuse or neglect was first received or observed. A mandated reporter who reasonably suspects abuse or neglect of a child, and who has confirmed that the same incident of suspected abuse or neglect was already reported, is not required to report that same incident of suspected abuse or neglect if the mandated reporter is reasonably certain that there is no additional information to report.

* * *

(h)(1) A person who violates subsection ~~(a)~~(c) of this section shall be fined not more than \$500.00.

(2) A person who violates subsection ~~(a)~~(c) of this section with the intent to conceal abuse or neglect of a child shall be imprisoned not more than six months or fined not more than \$1,000.00, or both.

(3) This section shall not be construed to prohibit a prosecution under any other provision of law.

(i) Except as provided in subsection ~~(h)~~(j) of this section, a person may not refuse to make a report required by this section on the grounds that making the report would violate a privilege or disclose a confidential communication.

(j) A member of the clergy shall not be required to make a report under this section if the report would be based upon information received in a communication which is:

(1) made to a member of the clergy acting in his or her capacity as spiritual advisor;

(2) intended by the parties to be confidential at the time the communication is made;

(3) intended by the communicant to be an act of contrition or a matter of conscience; and

(4) required to be confidential by religious law, doctrine, or tenet.

(k) When a member of the clergy receives information about abuse or neglect of a child in a manner other than as described in subsection ~~(h)~~(j) of this section, he or she is required to report on the basis of that information even though he or she may have also received a report of abuse or neglect about the same person or incident in the manner described in subsection ~~(h)~~(j) of this section.

Sec. 2. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT COMMITTEE; 2016 INTERIM RESPONSIBILITIES; PRIVILEGED COMMUNICATIONS

During the 2016 legislative interim, the Joint Legislative Child Protection Oversight Committee shall:

(1) review issues related to patient privilege, confidentiality of patient records and information, and the statutes and rules governing professional conduct; and

(2) analyze the extent to which those professional obligations identified in subdivision (1) interfere with the ability of certain professional mandated reporters to cooperate with the Department for Children and Families, law enforcement, and prosecutors during an ongoing child protection assessment, investigation, or proceeding.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Speaker Smith back in Chair.

Pending the question, Shall the bill be amended as recommended by the Committee on Human Services? **Rep. Hubert of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as

recommended by the Committee on Human Services? was decided in the affirmative. Yeas, 98. Nays, 40.

Those who voted in the affirmative are:

Ancel of Calais	Gonzalez of Winooski	Nuovo of Middlebury
Bartholomew of Hartland	Greshin of Warren	O'Brien of Richmond
Berry of Manchester	Haas of Rochester	Olsen of Londonderry
Bissonnette of Winooski	Head of South Burlington	O'Sullivan of Burlington
Botzow of Pownal	Higley of Lowell	Partridge of Windham
Briglin of Thetford	Hooper of Montpelier	Patt of Worcester
Browning of Arlington	Jerman of Essex	Pearson of Burlington
Burke of Brattleboro	Jewett of Ripton	Potter of Clarendon
Buxton of Tunbridge	Johnson of South Hero	Pugh of South Burlington
Carr of Brandon	Keenan of St. Albans City	Rachelson of Burlington
Chesnut-Tangerman of Middletown Springs	Kitzmiller of Montpelier	Ram of Burlington
Clarkson of Woodstock	Klein of East Montpelier	Russell of Rutland City
Cole of Burlington	Komline of Dorset	Sharpe of Bristol
Condon of Colchester	Krebs of South Hero	Sheldon of Middlebury
Conquest of Newbury	Krowinski of Burlington	Sibilia of Dover
Copeland-Hanzas of Bradford	Lalonde of South Burlington	Stevens of Waterbury
Corcoran of Bennington	Lanpher of Vergennes	Strong of Albany
Dakin of Colchester	Lefebvre of Newark	Stuart of Brattleboro
Dame of Essex	Lenes of Shelburne	Sullivan of Burlington
Davis of Washington	Lippert of Hinesburg	Sweaney of Windsor
Deen of Westminster	Long of Newfane	Toleno of Brattleboro
Devereux of Mount Holly	Macaig of Williston	Toll of Danville
Donovan of Burlington	Manwaring of Wilmington	Townsend of South Burlington
Emmons of Springfield	Marcotte of Coventry	Trieber of Rockingham
Evans of Essex	Masland of Thetford	Troiano of Stannard *
Feltus of Lyndon	McCormack of Burlington	Webb of Shelburne
Fields of Bennington	McCoy of Poultney	Wood of Waterbury
Fiske of Enosburgh	McCullough of Williston	Woodward of Johnson
Forguites of Springfield	McFaun of Barre Town	Wright of Burlington
Frank of Underhill	Miller of Shaftsbury	Yantachka of Charlotte
French of Randolph	Morris of Bennington	Young of Glover
Gage of Rutland City	Mrowicki of Putney *	Zagar of Barnard
	Murphy of Fairfax	
	Myers of Essex *	

Those who voted in the negative are:

Bancroft of Westford	Connor of Fairfield	Hebert of Vernon
Baser of Bristol	Cupoli of Rutland City	Helm of Fair Haven
Batchelor of Derby	Dickinson of St. Albans Town	Hubert of Milton
Beck of St. Johnsbury	Donahue of Northfield *	Juskiewicz of Cambridge
Beyor of Highgate	Fagan of Rutland City	LaClair of Barre Town
Branagan of Georgia	Gamache of Swanton	Lawrence of Lyndon
Brennan of Colchester	Graham of Williamstown	Lewis of Berlin
Canfield of Fair Haven		Lucke of Hartford

Martel of Waterford	Scheuermann of Stowe	Turner of Milton
Parent of St. Albans Town	Shaw of Pittsford	Van Wyck of Ferrisburgh
Pearce of Richford	Shaw of Derby	Viens of Newport City
Purvis of Colchester	Smith of New Haven	Walz of Barre City
Quimby of Concord	Tate of Mendon	Willhoit of St. Johnsbury *
Savage of Swanton	Terenzini of Rutland Town	

Those members absent with leave of the House and not voting are:

Burditt of West Rutland	Grad of Moretown	Poirier of Barre City
Christie of Hartford	Huntley of Cavendish	Ryerson of Randolph
Dakin of Chester	Martin of Wolcott	Till of Jericho
Eastman of Orwell	Morrissey of Bennington	

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

Although I vote no to this language, I support its intent and look forward to supporting clarifying language for third reading.”

Rep. Mrowicki of Putney explained his vote as follows:

“Mr. Speaker:

My vote to protect our children is consistent with my work. As a volunteer with Prevent Child Abuse VT, as a child care worker and as a family services worker for decades, I have been on the front lines of protecting our children. I didn’t just show up for this issue, I have and will continue to be on the front line of protecting our children and my vote aligns with my record of service to the children of Vermont.”

Rep. Myers of Essex explained her vote as follows:

“Mr. Speaker:

I voted yes, but I have reservations about Sec. 1(c). I would like a little more assurance that the report has been heard. The amendment has passed but I hope the Committee on Human Services takes another look at Sec. 1(c) before third reading.”

Rep. Troiano of Stannard explained his vote as follows:

“Mr. Speaker:

After spending months on our Child Protection last session, I have no question that this amendment will clarify the process and ultimately protect our children.”

Rep. Willhoit of St. Johnsbury explained his vote as follows:

“Mr. Speaker:

As an adoptive parent of abused and neglected children, I want all witnesses of abuse to provide a report. Too often one report isn’t enough to protect children. I vote no for my children and hundreds of other Vermont children abused and neglected every day.”

Thereupon, third reading was ordered.

Rep. Copeland-Hanzas in Chair.

Bill Amended; Third Reading Ordered

H. 765

Rep. Hubert of Milton, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to technical corrections

Reported in favor of its passage when amended as follows:

First: By striking out Sec. 78, 13 V.S.A. § 5359, in its entirety and inserting in lieu thereof a new Sec. 78 to read as follows:

Sec. 78. 13 V.S.A. § 5359 is amended to read:

§ 5359. ~~VICTIMS’~~ VICTIM’S COMPENSATION SPECIAL FUND

(a) There is created a fund to be known as the ~~victims’ compensation fund~~ Victim’s Compensation Fund. This ~~fund~~ Fund shall be administered by the ~~victims’ compensation board~~ Victim’s Compensation Board established by section 5352 of this title. The purpose of this ~~fund~~ Fund shall be to support the activities and the operating costs of the ~~victims’ compensation board~~ Victim’s Compensation Board and the ~~center for crime victims services~~ Center for Crime Victim Services.

(b) The ~~victims’ compensation fund~~ Victim’s Compensation Fund shall consist of:

(1) Fees imposed by the court clerk and designated for deposit into the ~~fund~~ Fund pursuant to section 7282 of this title.

(2) Restitution as ordered by the court pursuant to section 7043 of this title.

(3) Funds received from inmate labor contribution from the prison industries enhancement program or from any other source.

(4) Appropriations by the ~~general assembly~~ General Assembly.

(c) Balances in the ~~fund~~ Fund at the end of the fiscal year shall be carried forward and remain in the ~~fund~~ Fund.

Second: In Sec. 83, 32 V.S.A. § 3102, in subsection (a), in the second sentence, following “officer or employee of this ~~state~~”, by striking out the word “State” and inserting in lieu thereof the word “State”.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

Adjournment

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