

Journal of the House

Friday, February 12, 2016

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Kiah Morris of Bennington, Vt.

Pledge of Allegiance and Colors Presented

The Eagle Scouts led the Pledge of Allegiance.

Colors were presented by Eagle Scouts, Jordan Bell, James Comi, Brett Krzynski, Patrick McHugh and Connor Zwonik.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the Speaker recognized the following named Pages who are completing their service today and presented them with commemorative pins:

Walter Berger of Arlington
Ayla Bishop of Jeffersonville
Lydia Bushey of Barnet
Mariana Considine of Hardwick
Eamon Dunn of Burlington
Alex Emerson of Topsham
Alix St. Hilaire of Hinesburgh
Anna Kalfus of Colchester
Keri Mason of White River Junction
Nekaiya Shine of Granville

House Bill Introduced

H. 847

By Reps. Haas of Rochester, Burke of Brattleboro, Chesnut-Tangerman of Middletown Springs, Davis of Washington, Fields of Bennington, French of Randolph, Gonzalez of Winooski, Pearson of Burlington, Stevens of Waterbury, Sullivan of Burlington, Troiano of Stannard and Zagar of Barnard,

House bill, entitled

An act relating to authorizing a maximum compensation ratio for benefit corporations;

To the committee on Commerce & Economic Development.

Remarks Journalized

On motion of **Rep. McFaun of Barre Town**, the following remarks by **Reps. Gonzalez of Winooski, Ram of Burlington and Morris of Bennington** were ordered printed in the Journal:

Rep. Gonzalez of Winooski remarks:

“Thank you Mr. Speaker.

Firstly, I want to recognize the member from Hartford, who was unable to be here due to a medical issue. As one of the few African-American legislators who have served VT it is important to note his contribution and his regret for not being able to be here today as we read the resolution honoring the Black Lives Matter in Vermont resolution.

As a member from Winooski, I am particularly glad to be part of sponsoring this resolution. Seven percent of those living in Winooski are Black, African-American, and African; ranging from multiple-generation Vermonters to those who have recently found refuge in our welcoming city. Their presence and contribution is part of what makes Winooski great.

During the month of February, the month that nationally recognizes the past and present contributions of African-Americans, it is appropriate we take this moment to recognize and reflect upon the current contributions of African-Americans in our State for the benefit of all Vermonters.

Affirming the basic value of Black Lives is necessary, as can be seen in the comments sections of news articles, statistics referenced in the resolution, and the lived experience of Vermonters. Each of our lives are lessened by that necessity, just as each of our lives are richened by those that work to celebrate and honor the lives of Black Vermonters.

It is easy to get lost in our day-to-day and not see how our institutions benefit from a shining light. Black Lives Matters in VT have helped us shine a light on institutions to assist in making them better; better for Black and non-Black Vermonters who interact with those institutions, the institutions themselves, and those that work in the institutions.

Mr. Speaker, may I yield to the member from Burlington to continue to talk about this resolution.”

Rep. Ram of Burlington remarks:

“Mr. Speaker,

I rise to join my colleagues in stating unequivocally that Black Lives Matter.

Black lives matter to our past. From the last American stops on the Underground Railroad to the Buffalo Soldiers to Alexander Twilight, the first African-American college graduate and legislator, who served in this venerable body in 1836.

Black lives matter to our present. From the halls of our schools to the walls of our prisons, we have work to do to ensure justice for all - that everyone has equal access to an education, to a level playing field, to a fair shot at opportunity and advancement.

And black lives matter to our future. We have valuable human capital that can be diminished and wasted by the limiting effects of racism and prejudice. As one black woman I spoke with last week related to me, she plays a leadership role in the community, she is visible and outspoken, and yet she struggles to feel validated and supported in a climate that questions her very presence here, her identity as a Vermonter. As she so succinctly and poignantly put it, "I love Vermont, but I don't feel like Vermont loves me back." For someone to feel that way is tragic to the Vermont we believe in and hope to represent to the nation. We can all do more to make Vermont welcoming and equitable, and we can recommit to that work today.

We cannot afford to lose our black lives - to over-incarceration, to poverty, to inequality, to the debilitating effects of institutional racism. We must all work to support our fellow black Vermonters, and I hope you will join us in recognizing our guests for the valuable Vermont past, present, and future they represent. For the potential we can unlock if we work toward a societal and cultural fabric that demonstrates in its every fiber that Black lives truly matter.

Thank you."

Rep. Morris of Bennington remarks:

"Thank You Mr. Speaker,

The importance of this resolution should not be lost on anyone today. Communities throughout Vermont are engaging in hard conversations about discrimination in our state. The conversations are going beyond the pulpit and into the streets. Our state is changing, in my community, interracial families are growing exponentially. This reflection of diversity is Vermont at its best.

The willingness of people from all racial backgrounds to stand in solidarity with this movement across Vermont is such a powerful gift.

This is for Eric Garner.

This is for Sandra Bland.

This is for Marshawn McConnell.

This is for Rekia Boyd. I will continue to say their names.

This is for my cousin Jawaad, a decorated Marine who should have every assurance of safety as he walks the streets of Texas but faces ugly racism on a daily basis that threatens his life.

This is for the young black man with autism who told me his story – that police profile him as black man first. And those police encounters trigger him and can lead to unnecessary escalations driven by untrained law enforcement personnel.

This is for my mother, who was unjustly and forcefully arrested for standing up to blatant racism in Denny's when I was just a child the images of that day are burned into my soul.

This is for my five year old son Jamal, who recently cowered in fear behind me while a local police officer targeted and interrogated us as we were leaving the playground to head home for dinner. I have not yet had the conversation with him to tell him that he one day may be a deliberate target too.

This is for my niece Nia who experiences sanctions at her elite school for calling out students and teachers who use racist language towards her – because SHE is making others at her school feel uncomfortable.

This is for all of Vermont as this conversation goes far beyond encounters with law enforcement and touches each of our every day lives and how we wrestle with discrimination and bias against race, gender, class, age and disability and more in our communities. This is for each of us. **This movement** brought those conversations to our kitchen tables. **This movement** compelled our legislature to pass legislation to directly address issues of police bias – TWICE. I thank those who had the courage to launch this movement – in the whitest state in the union - against intense resistance. Against thoughts that this movement doesn't matter or that this conversation is somehow irrelevant. But mostly for those of us who may not have been able to articulate the questions that deserve honest answers. And I thank all of those legislators who signed on today and who adopted this resolution. What a humbling and powerful gift to our state. Thank you all. Black lives matter. Black lives matter. Black lives matter.”

Remarks Journalized

On motion of **Rep. Haas of Rochester**, the following remarks by **Reps. Stevens of Waterbury and Wood of Waterbury** were ordered printed in the Journal:

Rep. Stevens of Waterbury remarks:

“Mr. Speaker:

On Aug 29, 2011, Vermonters in Waterbury, Duxbury, Moretown, Waitsfield, Warren, Granville, Rochester, Pittsfield, Mendon, Rutland, and all the way down to Wardsboro and Wilmington, and from Montpelier, Northfield, Bethel and Hartford, and many other towns, woke to the damage wrought by a once in a lifetime storm.

Mr. Speaker, you came to Waterbury to tour Randall Street and the State Complex, and when we met with the Secretary of AHS in the front of the complex, we heard that we would probably be back in a month, after we pumped out the tunnels. We would have thought differently had we seen the back the back of the complex.

The damage to Waterbury was extensive, and the generosity of Vermonters and the state have helped us recover, both physically and psychologically, and we, as a community, remain forever grateful.

The damage to our state functions, however, was also severe, and impacted far more people. We lost the state hospital, and have worked feverishly to restore not only the structures but the programming that will do the job we need it to do. And we scattered hundreds of state workers across the state to locations that were no better suited for them to do their jobs than was the old complex.

And now, four and half years later, we are resettling some of our most important agencies back in Waterbury. To use a word we used a lot over the last several years, the completion of the complex truly represents our resilience.

It could only happen because of the General Assembly, and the Shumlin Administration, and our federal delegation, and our institutions committees in the house and senate, and the men and women who cleaned that space up, designed a new one, and built it for the challenges of the 21st century.

And I am proud because the rebuilding of the State Office Complex was complex indeed. It takes a village to raise a child? It took a state to create this state complex. From every corner of the state people came together to rebuild and reinvest in a 21st century office complex that would be a clean well-lighted place for the people who work there. It is an energy-efficient building, a welcoming building, a beautiful building, and a Vermont building - built by Vermont workers of Vermont materials.

I hope that all Vermonters will have the opportunity to visit the new State Complex, where the Agency of Human Services conducts the people's work - helping Vermonters who most need our support.”

Rep. Wood of Waterbury remarks:

“Thank you Mr. Speaker,

I would like to add my thanks to that of Rep. Stevens on behalf of the community of Waterbury to this entire body, in particular to my current committee on Corrections and Institutions, to the Senate Committee on Institutions, to the team at the Department of Buildings and General Services, led by Commissioner Obuchowski and Project Manager Mike Stevens and to the expansive team involved in delivering the state-of-the-art office building and returning the Agency of Human Services to its new home.

I had the privilege of being among the limited number of people to walk the project "behind the fence" on a monthly basis -- the attention to detail in restoring the historic core of buildings and to carefully detailing the function of the newly constructed building was nothing short of remarkable.

This is an investment for the future, not just for Waterbury, but for our entire state -- an investment we can be proud of, and I thank all of you.”

Remarks Journalized

On motion of **Rep. Myers of Essex**, the following remarks by **Rep. Fagan of Rutland City** were ordered printed in the Journal:

(Text of Rep. Fagan’s remarks will be printed in the 2016 Permanent Journal)

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 533

House bill, entitled

An act relating to victim notification;

H. 608

House bill, entitled

An act relating to solid waste management;

H. 765

House bill, entitled

An act relating to technical corrections;

Action on Bill Postponed**H. 622**

House bill, entitled

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

Was taken up and pending third reading of the bill, on motion of **Rep. Mrowicki of Putney**, action on the bill was postponed until February 19, 2016.

Bill Read Second Time; Third Reading Ordered**H. 845**

Rep. Cole of Burlington spoke for the committee on Government Operations.

House bill entitled

An act relating to legislative review of certain report requirements

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

Bill Amended; Third Reading Ordered**H. 400**

Rep. Nuovo of Middlebury, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to various changes to judicial procedure

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

Sec. 1. 14 V.S.A. § 2666 is amended to read:

§ 2666. MODIFICATION; TERMINATION

* * *

(b) Where the permanent guardianship is terminated by the ~~probate division of the superior court~~ Probate Division of the Superior Court order or the death of the permanent guardian, the custody and guardianship of the child shall not revert to the parent, but to the ~~commissioner for children and families~~ Commissioner for Children and Families as if the child had been abandoned.

(1) Upon the death of the permanent guardian or when the permanent guardianship is otherwise terminated by order of the Probate Division, the Probate Division shall issue an order placing the child in the custody of the

Commissioner and shall immediately notify the Department for Children and Families, the State's Attorney, and the Family Division.

(2) The order transferring the child's legal custody to the Commissioner shall have the same legal effect as a similar order issued by the Family Division under the authority of 33 V.S.A. chapters 51-53.

(3) After the Probate Division issues the order transferring legal custody of the child, the State shall commence proceedings under the authority of 33 V.S.A. chapters 51-53 as if the child were abandoned.

* * *

Sec. 2. 14 V.S.A. § 2667 is amended to read:

§ 2667. ORDER FOR VISITATION, CONTACT, OR INFORMATION;
IMMEDIATE HARM TO THE MINOR

(a) ~~The probate division of the superior court~~ Probate Division of the Superior Court shall have exclusive jurisdiction to hear any action to enforce, modify, or terminate the initial order issued by the ~~family division of the superior court~~ Family Division of the Superior Court for visitation, contact, or information.

(b) Upon a showing by affidavit of immediate harm to the child, the ~~probate division of the superior court~~ Probate Division of the Superior Court may temporarily stay the order of visitation or contact on an ex parte basis until a hearing can be held, or stay the order of permanent guardianship and ~~assign parental rights and responsibilities~~ transfer legal custody of the child to the ~~commissioner for children and families~~ Commissioner for Children and Families.

(1) The order transferring the child's legal custody to the Commissioner shall have the same legal effect as a similar order issued by the Family Division under the authority of 33 V.S.A. chapters 51-53.

(2) The Probate Division shall then immediately notify the Department for Children and Families, the State's Attorney, and the Family Division when it has issued an order transferring the child's legal custody to the Commissioner, and nothing in this subsection shall prohibit the State from commencing proceedings under 33 V.S.A. chapters 51-53.

* * *

Sec. 3. 33 V.S.A. § 5223 is amended to read:

§ 5223. FILING OF PETITION

(a) When notice to the child is provided by citation, the State's Attorney shall file the petition and supporting affidavit at least 10 business days prior to the date for the preliminary hearing specified in the citation.

(b) The Court shall send or deliver a copy of the petition and affidavit to all persons required to receive notice, including the noncustodial parent and the Department, as soon as possible after the petition is filed and at least five business days prior to the date set for the preliminary hearing.

Sec. 4. 33 V.S.A. § 5229 is amended to read:

§ 5229. MERITS ADJUDICATION

* * *

(g) If, based on the child's admission or the evidence presented, the Court finds beyond a reasonable doubt that the child has committed a delinquent act, the Court shall order the Department to prepare a disposition case plan ~~within 28 days of the merits adjudication and shall set the matter for a~~ not later than seven business days before the disposition hearing. In no event, shall a disposition hearing be held later than 35 days after a finding that a child is delinquent.

(h) The Court may proceed directly to disposition providing that the child, the custodial parent, the State's Attorney, and the Department agree.

Sec. 5. 33 V.S.A. § 5230 is amended to read:

§ 5230. DISPOSITION CASE PLAN

(a) Filing of case plan. ~~The~~ Following the finding by the Court that a child is delinquent, the Department shall file a disposition case plan ~~no~~ not later than ~~28 days from the date of the finding by the Court that a child is delinquent~~ seven business days before the scheduled disposition hearing. The disposition case plan shall not be used or referred to as evidence prior to a finding that a child is delinquent.

* * *

Sec. 6. 33 V.S.A. § 5315 is amended to read:

§ 5315. MERITS ADJUDICATION

* * *

(f) If the Court finds that the allegations made in the petition have not been established, the Court shall dismiss the petition and vacate any temporary orders in connection with this proceeding. A dismissal pursuant to this subsection is a final order subject to appeal.

(g) If the Court finds that the allegations made in the petition have been established based on the stipulation of the parties or on the evidence if the merits are contested, the Court shall order the Department to prepare a disposition case plan ~~within 28 days of the merits hearing and shall set the matter for a~~ not later than seven business days before a scheduled disposition hearing. An adjudication pursuant to this subsection is not a final order subject to appeal separate from the resulting disposition order.

* * *

Sec. 7. 33 V.S.A. § 5315a is added to read:

§ 5315a. MERITS STIPULATION

(a) At any time after the filing of the CHINS petition and prior to an order of adjudication on the merits, the Court may approve a written stipulation to the merits of the petition and any or all elements of the disposition plan, including the permanency goal, placement, visitation, or services.

(b) The Court may approve a written stipulation if:

(1) the parties to the petition, as defined in subdivision 5102 (22) of this title, agree to the terms of the stipulation; and

(2) the Court determines that:

(A) the agreement between the parties is voluntary;

(B) the parties to the agreement understand the nature of the allegation; and

(C) the parties to the agreement understand the rights waived if the Court approves of and issues an order based upon the stipulation.

Sec. 8. 33 V.S.A. § 5316 is amended to read:

§ 5316. DISPOSITION CASE PLAN

(a) ~~The~~ Following a finding by the Court that a child is in need of care or supervision, the Department shall file a disposition case plan ordered pursuant to subsection 5315(g) of this title ~~no not later than 28 days from the date of the finding by the Court that a child is in need of care or supervision~~ seven business days before the scheduled disposition hearing.

Sec. 9. 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, report of the committee on Judiciary agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 677

Rep. Burditt of West Rutland, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to the Restitution Unit

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. § 7043(n) is amended to read:

(n)(1) Any monies owed by the State to an offender who is under a restitution order, including lottery winnings, unclaimed property, and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the Courts.

(2) The Restitution Unit may request from the Office of the Treasurer the names and Social Security or federal identification numbers of owners of unclaimed property prior to notice being given to such persons pursuant to 27 V.S.A. § 1249. If any such owner owes restitution, the Restitution Unit, after notice to the owner, may request and the Treasurer shall transfer the unclaimed property of such owner to the Restitution Unit to be applied to the amount of restitution owed. The notice shall advise the owner of the action being taken and the right to appeal the setoff if he or she is not the person liable under the Restitution Judgment Order; or if the underlying conviction was vacated or is under appeal.

(3) When an offender is entitled to a tax refund, any restitution owed by the offender shall be withheld from the refund pursuant to 32 V.S.A. chapter 151, subchapter 12.

~~(3)~~(4)(A) For all Vermont lottery games, the Lottery Commission shall, before issuing prize money of \$500.00 or more to a winner, determine whether the winner has an outstanding restitution order. If the winner owes restitution, the Lottery Commission shall withhold the entire amount of restitution owed and pay it to the Restitution Unit. The remainder of the winnings, if any, shall be sent to the winner. The winner shall be notified by the Restitution Unit of the offset prior to payment to the victim and given a period not to exceed 20 days to contest the accuracy of the information.

(B) The Restitution Unit shall inform the Lottery Commission of persons with outstanding restitution orders upon request. Each person subject to such an order shall be identified by name, address, and Social Security number.

(C) If a lottery winner has an outstanding restitution order and an outstanding child support order, the lottery winnings shall be offset first pursuant to 15 V.S.A. § 792 by the amount of child support owed, and second pursuant to this subsection by the amount of restitution owed. The remainder of the winnings, if any, shall be sent to the winner.

~~(4)~~(5) Unless otherwise provided, monies paid under this subsection shall be paid directly to the Restitution Unit.

Sec. 2. 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 Referred to Committee on Appropriations

H. 539

House bill, entitled

An act relating to establishment of a Pollinator Protection Committee

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Remarks Journalized

On motion of **Rep. Miller of Shaftsbury**, the following remarks by **Rep. Troiano of Stannard** were ordered printed in the Journal:

”Thank you Mr. Speaker:

In March of 1968 I was assigned to an army unit at Fort Meade, Maryland. Shortly after Martin Luther King was assassinated.

A cardboard village was constructed on the lawn of the Capital, it was called Resurrection City. Our government allowed the city to continue for a period of time, then there came a time our government decided the the village had been there long enough.

The police were sent in to destroy the cardboard village, and take the people into custody and disburse the inhabitants. Riots ensued and as a member of the 6th Armored Calvary I was sent into Washington DC to quell the riots.

We were sent into the city with loaded weapons on Armored Personal Carriers. I was just back from Vietnam Nam and myself and a number of other Viet Nam Vets decided it was outrageous that after we had been asked to turn our weapons on the yellow man that we were now asked to turn our weapons on the black people of our own country.

We were outraged and decided we were not going to do this. We were sent out to patrol the streets of DC. We refused to arrest, detain, or turn our weapons on the black residents of their own city.

All who we encountered we were respectful to and told them that it was not safe to be out on the streets and they should head home. In return we were showed respect from those we spoke to and they hurried to get off the streets to safety.

We felt good about doing this. For a handful of white solders on the streets of Washington DC in March 1968, black lives mattered, black lives matter.

Thank you.”

Message from the Senate No. 17

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 bill of the following title:

S. 171. An act relating to eligibility for pretrial risk assessment and needs screening.

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

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 34. Senate concurrent resolution honoring natural resources and transportation historian William G. Gove of Williamstown for his prodigious research and fascinating books.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 233. House concurrent resolution in memory of Richard Walters of Shelburne.

H.C.R. 234. House concurrent resolution honoring MacArthur Fellow Alison Bechdel of Bolton on her artistic and literary achievements.

H.C.R. 235. House concurrent resolution designating February 5, 2016 as Wear Red Day in Vermont.

H.C.R. 236. House concurrent resolution congratulating the 2015 Middlebury College Panthers National Collegiate Athletic Association's Division III championship field hockey team.

H.C.R. 238. House concurrent resolution congratulating Vermont National Guard Specialist Skylar Anderson on becoming the first woman certified as a U.S. military combat engineer.

H.C.R. 239. House concurrent resolution honoring Rip Jackson on his outstanding service as minister of music at Grace Congregational Church in Rutland.

H.C.R. 240. House concurrent resolution designating February 11, 2016 as Suicide Prevention Awareness Day in Vermont.

H.C.R. 241. House concurrent resolution honoring Dr. Donald and Elizabeth Bicknell for their many years of outstanding community service.

Adjournment

At ten o'clock and forty-two minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Tuesday, February 16, 2016, at ten o'clock in the forenoon, pursuant to the provisions of JRS39.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 233

House concurrent resolution in memory of Richard Walters of Shelburne;

H.C.R. 234

House concurrent resolution honoring MacArthur Fellow Alison Bechdel of Bolton on her artistic and literary achievements;

H.C.R. 235

House concurrent resolution designating February 5, 2016 as Wear Red Day in Vermont;

H.C.R. 236

House concurrent resolution congratulating the 2015 Middlebury College Panthers National Collegiate Athletic Association's Division III championship field hockey team;

H.C.R. 238

House concurrent resolution congratulating Vermont National Guard Specialist Skylar Anderson on becoming the first woman certified as a U.S. military combat engineer;

H.C.R. 239

House concurrent resolution honoring Rip Jackson on his outstanding service as minister of music at Grace Congregational Church in Rutland;

H.C.R. 240

House concurrent resolution designating February 11, 2016 as Suicide Prevention Awareness Day in Vermont;

H.C.R. 241

House concurrent resolution honoring Dr. Donald and Elizabeth Bicknell for their many years of outstanding community service;

S.C.R. 34

Senate concurrent resolution honoring natural resources and transportation historian William G. Gove of Williamstown for his prodigious research and fascinating books;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2016, seventy-third Biennial session.]