

Journal of the House

Thursday, February 18, 2016

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

Devotional Exercises

Devotional exercises were conducted by Reverend Carl VanOsdall of the First Presbyterian Church in Barre, VT.

House Bill Introduced

H. 850

By Reps. Browning of Arlington, Berry of Manchester, Gage of Rutland City, Gamache of Swanton, Hebert of Vernon and Van Wyck of Ferrisburgh,

House bill, entitled

An act relating to assistance with and participation in Public Service Board proceedings;

To the committee on Commerce & Economic Development.

Joint Resolution Referred to Committee

J.R.S. 35

By Senators Sears, Ashe, Flory, Lyons, and Snelling,

J.R.S. 35. Joint resolution urging Vermont's participation in the Stepping Up initiative to reduce the number of incarcerated Vermonters with a mental illness.

Whereas, the Department of Corrections (DOC), in accordance with its Vermont System of Care Plan, uses the term "serious functional impairment" (SFI) to include inmates who have a serious mental illness, and

Whereas, the services that inmates with an SFI designation require from the DOC are greater than those of other inmates, and

Whereas, inmates with an SFI designation may remain in correctional facilities longer and exhibit higher recidivism rates than other inmates, and

Whereas, upon release, inmates that had an SFI designation may need specialized mental health care services, and

Whereas, aside from those inmates with an SFI designation, the DOC reports that approximately 40 percent of the male inmate population and

80 percent of the female inmate population have been treated for a diagnosed mental illness, and

Whereas, these other inmates place an extra service demand on Vermont's correctional and mental health systems, even though diagnosticians would not necessarily characterize these inmates' mental illness as serious, and

Whereas, the National Association of Counties, the Council of State Governments Justice Center, and the American Psychiatric Foundation have developed a national initiative called Stepping Up to reduce the number of incarcerated persons who have a mental illness, and

Whereas, the Stepping Up initiative encourages a collaborative and data-driven approach to reducing safely the number of inmates who have a mental illness, and this project merits the State of Vermont's participation, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly urges the Department of Corrections, in partnership with the Department of Mental Health, to participate in the Stepping Up initiative, including:

1) reviewing State policies that can support Stepping Up, including investments in mental health and corrections that can advance local collaborative efforts;

2) facilitating connections to health care and community-based treatment services;

3) sharing lessons learned and promising practices throughout the Vermont correctional and mental health care systems; and

4) incorporating the goals of Stepping Up into the objectives of existing correctional and mental health planning and programs, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Commissioner of Corrections and the Commissioner of Mental Health.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the Committee on Human Services.

Action on Bill Postponed

H. 611

House bill, entitled

An act relating to fiscal year 2016 budget adjustments

Was taken up and pending the reading of the consideration of the Senate proposal of amendment, on motion of **Rep. Turner of Milton**, action on the bill was postponed until Tuesday, February 22, 2016.

Third Reading; Bills Passed

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

H. 249

House bill, entitled

An act relating to intermunicipal services and the authority to create a regional council of governments;

H. 539

House bill, entitled

An act relating to establishment of a Pollinator Protection Committee;

Bill Amended; Third Reading Ordered

H. 297

Rep. McCullough of Williston, for the committee on Fish, Wildlife & Water Resources, to which had been referred House bill, entitled

An act relating to the sale of ivory or rhinoceros horn

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

Sec. 1. 10 V.S.A. chapter 175 is added to read:

CHAPTER 175. IVORY AND RHINOCEROUS HORN

§ 7701. SALE OF IVORY OR RHINOCEROS HORN

(a) Definitions. As used in this act:

(1) “Ivory” means any tusk composed of ivory from an elephant or mammoth, or any piece thereof, whether raw ivory or worked ivory, or made into, or part of, an ivory product.

(2) “Ivory product” means any item that contains, or is wholly or partially made from, any ivory.

(3) “Raw ivory” means any ivory the surface of which, polished or unpolished, is unaltered or minimally changed by carving.

(4) “Rhinoceros horn” means the horn, or any piece thereof, of any species of rhinoceros.

(5) “Rhinos horn product” means any item that contains, or is wholly or partially made from, any rhinos horn.

(6) “Total value of the ivory, ivory products, rhinos horn, and rhinos horn products” means the fair market value of the ivory, ivory products, rhinos horn, and rhinos horn products, or the actual price paid for the ivory, ivory products, rhinos horn, and rhinos products, whichever is greater.

(7) “Worked ivory” means ivory that has been embellished, carved, marked, or otherwise altered so that it can no longer be considered raw ivory.

(b) Prohibition. In addition to the prohibitions and penalties established by federal law, a person in this State shall not import, sell, offer for sale, purchase, barter, or possess with intent to sell, any ivory, ivory product, rhinos horn, or rhinos horn product, except as authorized under subsections (d) and (e) of this section.

(c) Presumption of intent to sell. The possession in this State of any ivory, ivory product, rhinos horn, or rhinos horn product in a retail or wholesale outlet commonly used for the buying or selling of similar products shall constitute presumptive evidence of possession with intent to sell under this section. Nothing in this subsection shall preclude a finding of intent to sell based on any evidence that may serve independently to establish intent to sell. The act of obtaining an appraisal of ivory, an ivory product, rhinos horn, or a rhinos horn product alone shall not constitute possession with intent to sell.

(d) Authorized conveyance to beneficiaries. A person may convey ivory, an ivory product, rhinos horn, or a rhinos horn product to the legal beneficiary of the ivory, ivory product, rhinos horn, or rhinos horn product that is part of an estate or other items being conveyed to lawful beneficiaries upon the death of the owner of the ivory, ivory product, rhinos horn, or rhinos horn product or in anticipation of that death.

(e) Exceptions.

(1) The prohibitions of this section shall not apply to:

(A) employees or agents of the federal government or the State undertaking any law enforcement activities pursuant to federal or State law or any mandatory duties required by federal or State law;

(B) the import of legally acquired ivory, ivory products, rhinos horn, or rhinos horn products:

(i) expressly authorized by federal law, license, or permit; or

(ii) as part of a personal or household move into the State;

(C) the sale of ivory or ivory products expressly authorized by federal law, license, or permit, provided that the total weight of the ivory or ivory components is less than 200 grams; or

(D) the import, sale, offer for sale, purchase, barter, or possession with intent to sell of any ivory, ivory product, rhinoceros horn, or rhinoceros horn product for a bona fide educational or scientific purpose or to a museum, unless the proposed activity is prohibited by federal law.

(2) In connection with any action alleging violation of this section, any person claiming the benefit of any exception under this section shall have the burden of proving that the exception is applicable and was valid and in force at the time of the alleged violation.

(f) Enforcement and penalties.

(1) This section may be enforced by a law enforcement officer as defined in 20 V.S.A. § 2358.

(2) A person who violates this section or a rule adopted pursuant to this section commits a misdemeanor and shall be fined:

(A) For a first offense, \$1,000.00 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

(B) For a second or subsequent offense, \$5,000.00 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

(3) The penalties provided in this section shall be in addition to any penalty that may be imposed under federal law.

(g) Seizure. Upon a conviction for a violation of this section or the rules adopted under this section, a court shall order the seizure of all ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the violation and determine the penalty for the violation based on the assessed value of the seized products. After sentencing the defendant, the court shall order that the seized ivory, ivory products, rhinoceros horn, and rhinoceros horn products be transferred to the Secretary of Natural Resources for proper disposition. The Secretary, in his or her discretion, may destroy the ivory, ivory products, rhinoceros horn, and rhinoceros horn products or donate them to an educational or scientific institution or organization.

(h) Rulemaking. The Secretary of Natural Resources may adopt rules to implement the requirements of this section.

(i) Educational information. The Secretary of Natural Resources shall maintain on its website information regarding the prohibition of the sale and purchase of ivory and rhinoceros horns in this State.

Sec. 2. REPORT ON IVORY AND RHINOCEROS HORN PROHIBITION

On or before January 15, 2022, the Secretary of Natural Resources, after consultation with the U.S. Fish and Wildlife Service, shall submit to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy a report regarding the implementation of 10 V.S.A. § 7701, including a summary of:

(1) enforcement activities taken by the State, including the outcome of any items seized;

(2) the financial impact of the prohibition of the sale of ivory and rhinoceros horns on Vermont businesses;

(3) what actions other states have taken with regard to the sale of ivory and rhinoceros horns; and

(4) recommendations regarding necessary changes to Vermont law, including the extension or repeal of the prohibition.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2018.

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

Bill Amended; Third Reading Ordered

H. 530

Rep. Devereux of Mount Holly, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to categorization of State contracts for service

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

Sec. 1. 3 V.S.A. § 311 is amended to read:

§ 311. CLASSIFIED SERVICE DEFINED; EXCEPTIONS

(a) The classified service to which this chapter shall apply shall include all positions and categories of employment by the ~~state~~ State, except as otherwise provided by law, and except the following:

* * *

(10) A person or persons engaged under retainer, contract for services as defined in section 341 of this title, or special agreement, ~~when certified to the secretary of administration by the attorney general that such engagement is not contrary to the spirit and intent of the classification plan and merit system principles and standards provided by this chapter.~~

* * *

Sec. 2. 3 V.S.A. § 341 is amended to read:

§ 341. DEFINITIONS

As used in this chapter:

(1) “Agency” means any agency, board, department, commission, committee, or authority of the ~~executive branch~~ Executive Branch of ~~state~~ State government.

(2) “Personal services contract” ~~or “contract”~~ means ~~an agreement or combination or series of agreements, by which an entity or individual who is not a state employee agrees with an agency to provide services, valued at \$10,000.00 or more per year~~ a contract for services that is categorized as personal services in accordance with procedures developed by the Secretary of Administration.

(3) “Privatization contract” means a ~~personal services contract by which an entity or an individual who is not a state employee agrees with an agency to provide services,~~ for services valued at ~~\$20,000.00~~ \$25,000.00 or more per year, which ~~are~~ is the same or substantially similar to and in lieu of services previously provided, in whole or in part, by permanent, classified ~~state~~ State employees, and which ~~result~~ results in a reduction in force of at least one permanent, classified employee, or the elimination of a vacant position of an employee covered by a collective bargaining agreement.

(4) “Contract for services” means an agreement or combination or series of agreements by which an entity or individual agrees with an agency to provide services as an independent contractor, rather than as an employee.

Sec. 3. 3 V.S.A. § 342 is amended to read:

§ 342. CONTRACTING STANDARDS; ~~PERSONAL SERVICES~~

CONTRACTS FOR SERVICES

Each contract for services valued at \$25,000.00 or more per year shall require certification by the Office of the Attorney General to the Secretary of Administration that such contract for services is not contrary to the spirit and intent of the classification plan and merit system and standards of this title. A

~~personal services~~ contract for services is contrary to the spirit and intent of the classification plan and merit system and standards of this title, and shall not be certified by the Office of the Attorney General ~~under subdivision 311(a)(10) of this title as provided in this subsection~~, unless the provisions of subdivisions (1), (2) and (3) of this subsection are met, or one or more of the exceptions described in subdivision (4) of this subsection apply.

* * *

Sec. 4. 3 V.S.A. § 344 is amended to read:

§ 344. CONTRACT ADMINISTRATION

(a) The Secretary of Administration shall maintain a database with information about contracts for services, including approved privatization contracts and approved personal services contracts. The Secretary shall also maintain a database with information about privatization contracts which are rejected because they fail to qualify under subdivision 343(2) of this title. Contracts maintained in the database shall be public record to the extent provided under 1 V.S.A. chapter 5, and shall be located at the agency of origin, including information about names of contractors, summaries of work to be performed, costs, and duration.

(b) The information on contracts maintained in the database shall be reported to the General Assembly in the annual workforce report required under subdivision 309(a)(19) of this title. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

Sec. 5. 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 Government Operations agreed to and third reading ordered.

Adjournment

At two o'clock and six 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.