

Journal of the House

Thursday, April 21, 2016

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

Devotional Exercises

Devotional exercises were conducted by Ben Partridge, playing bagpipes from Windham, Vt.

Bill Referred to Committee on Ways and Means

S. 250

Senate bill, entitled

An act relating to alcoholic beverages

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

House Resolution Placed on Calendar

H.R. 21

House resolution, entitled

House resolution requesting the Shumlin administration and the Attorney General to release certain e-mails

Offered by: Representatives Pearson of Burlington, Chesnut-Tangerman of Middletown Springs, Davis of Washington, Gonzalez of Winooski, and Haas of Rochester

Whereas, trust is the foundation of effective public service, and

Whereas, transparency is essential for establishing and maintaining that trust with Vermonters of all political persuasions, and

Whereas, in questions that concern vast amounts of money, issues of transparency are especially important, and

Whereas, Vermont took a unique role as administrator of the Vermont EB-5 program, and

Whereas, the administration asked that e-mails be deleted, including e-mails of personnel who played various roles in the EB-5 projects, and

Whereas, the EB-5 projects scandal is the subject of State and federal investigations, and

Whereas, the administration asserts that the e-mails it was attempting to delete are unrelated to any EB-5 investigations, and

Whereas, the administration has now said it wishes to release to the public the e-mails it was attempting to delete, and

Whereas, 1 V.S.A. § 317(c)(14) gives the Attorney General discretion to release documents relevant to pending litigation, now therefore be it

Resolved by the House of Representatives:

That this legislative body requests Attorney General Sorrell to exercise his discretion to authorize release of the e-mails that the administration had attempted to delete because the damage to the public's trust in government that the attempted deletion has caused far outweighs any speculative harm that release of the e-mails might cause to pending court cases, and be it further

Resolved: That this legislative body requests the administration to make public the e-mails it was attempting to delete, and be it further

Resolved: That this legislative body requests the administration to deliver the e-mails it had attempted to delete to the House Committee on Government Operations on or before May 2, 2016, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Secretary of Administration and to the Attorney General.

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

Third Reading; Bill Passed

H. 885

House bill, entitled

An act relating to approval of amendments to the charter of the Town of Shelburne

Was taken up, read the third time and passed.

Third Reading; Bill Passed in Concurrence

S. 157

Senate bill, entitled

An act relating to breast density notification and education

Was taken up, read the third time and passed in concurrence.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 174

Senate bill, entitled

An act relating to a model State policy for use of body cameras by law enforcement officers

Was taken up and pending third reading of the bill, **Reps. Branagan of Georgia, Berry of Manchester, Clarkson of Woodstock, Donahue of Northfield, Feltus of Lyndon, McCullough of Williston, Rachelson of Burlington, Sheldon of Middlebury and Troiano of Stannard** moved to propose to the Senate to amend the bill as follows:

First: In Sec. 1, subdivision (a)(1), by striking the word “establish” and inserting in lieu thereof the word “recommend”

Second: In Sec. 1, subsection (b), by striking subdivisions (3) and (4) in their entirety and inserting in lieu thereof new subdivisions (3), (4), and (5) to read as follows:

(3) when a video recording made by a law enforcement officer’s body camera should be exempt from disclosure under the Public Records Act as determined by 1 V.S.A. chapter 5, subchapter 3;

(4) treatment of situations when a law enforcement officer’s body camera malfunctions or is unavailable; and

(5) the measures that will be instituted to ensure that civil liberties and civil rights are protected.

Third: In Sec. 1, by striking subsection (c) in its entirety.

Thereupon, **Rep. Branagan of Georgia** asked and was granted leave of the House to withdraw the amendment.

Pending third reading of the bill, **Rep. Hubert of Milton** moved to propose to the Senate to amend the bill as follows:

First: In Sec. 1, subdivision (a)(1), after the word “report” by inserting the words “in the form of proposed legislation”

Second: In Sec. 1, by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) A law enforcement agency or constable that does not use body cameras shall not be required to adopt a model policy regarding their use.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Third Reading; Joint Resolution Passed in Concurrence

J.R.S. 35

Joint resolution, entitled

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

Was taken up, read the third time and passed in concurrence.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 66

Reps. McFaun of Barre Town, for the committee on Human Services, to which had been referred Senate bill, entitled

An act relating to persons who are deaf, DeafBlind, or hard of hearing

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. 33 V.S.A. chapter 16 is added to read:

CHAPTER 16. VERMONT DEAF, HARD OF HEARING, AND DEAFBLIND ADVISORY COUNCIL

§ 1601. DEFINITIONS

As used in this chapter:

(1) "Communication or language mode" means verbal or nonverbal communication that includes listening, speaking, American Sign Language (ASL), Signed English, Signed Support, reading, and writing in all domains of a language. Reference to the communication mode of individuals who are Deaf, Hard of Hearing, or DeafBlind distinguishes between modality and language. Systems that assist individuals using a particular modality or language include ASL, spoken English, signed English, sign-supported speech, speech or lip reading, cued speech, and assistive technology.

(2) “Deaf” means having a severe or complete absence of auditory sensitivity that impairs processing of linguistic information through hearing, with or without amplification or cochlear implants. Typically, people who identify as Deaf use ASL and are involved with the Deaf community.

(3) “DeafBlind” means having concomitant hearing and visual impairments.

(4) “Department” means the Department of Disabilities, Aging, and Independent Living.

(5) “Hard of Hearing” means a reduced level of functional hearing and reliance on residual hearing and technology, including hearing aids, cochlear implants, FM listening systems, and other types of assistive listening devices to communicate via verbal language. Typically, people who identify as hard of hearing do not use ASL and are not involved in the Deaf community.

§ 1602. VERMONT DEAF, HARD OF HEARING, AND DEAFBLIND

ADVISORY COUNCIL

(a) Creation; purpose. There is created a Vermont Deaf, Hard of Hearing, and DeafBlind Advisory Council to promote diversity, equality, awareness, and access among individuals who are Deaf, Hard of Hearing, or DeafBlind.

(b) Membership. The Advisory Council shall consist of the following members:

(1) sixteen members of the public, appointed by the Governor in a manner that ensures geographically diverse membership, including:

(A) nine or fewer members who are Deaf, Hard of Hearing, or DeafBlind provided each population is represented and that if a member represents an organization for persons who are Deaf, Hard of Hearing, or DeafBlind no other member on the Advisory Council shall also represent that organization;

(B) two members who are each a parent or guardian of a child who is Deaf, Hard of Hearing, or DeafBlind;

(C) two members who serve persons who are Deaf, Hard of Hearing, or DeafBlind in a professional capacity, provided that these members do not represent the same organization;

(D) a professional deaf-education specialist who understands all communication and language modes;

(E) a professional interpreter; and

(F) an audiologist or hard-of-hearing education specialist;

(2) the Senior Counselor for the Deaf and Hard of Hearing in the Department's Division of Vocational Rehabilitation or designee;

(3) the Secretary of Education or designee;

(4) the Secretary of Human Services or designee;

(5) the director of the Department for Children and Families' Children's Integrated Services or designee;

(6) the director of the Vermont Early Detection and Intervention Project;

(7) a representative of the Vermont Association of the Deaf;

(8) a superintendent, selected by the Vermont Superintendents Association; and

(9) a special education administrator, selected by the Vermont Council of Special Education Administrators.

(c) Powers and duties.

(1) The Advisory Council shall assess the services, resources, and opportunities available to children in the State who are Deaf, Hard of Hearing, or DeafBlind. It may consider and make recommendations to the General Assembly and the Governor on the following:

(A) the educational rights of children who are Deaf, Hard of Hearing, or DeafBlind, including full communication and language access in all educational environments and accessibility of qualified teachers, interpreters, and paraprofessionals;

(B) appropriate and ongoing educational opportunities that recognize each child's unique learning needs, including access to a sufficient number of communication or language mode peers and exposure to adult role models who are Deaf, Hard of Hearing, or DeafBlind;

(C) adequate family supports that promote both early development of communication skills and informed participation by parents and guardians in the education of their children;

(D) identification of all losses of or reductions in services arising from the closures of the Austine School for the Deaf and the Vermont Center for the Deaf and Hard of Hearing and evaluation of the adequacy of existing services and resources, as well as identification of those resources not currently available, adequate, or accessible to children;

(E) opportunities to restore and expand educational opportunities to children in the State who are Deaf, Hard of Hearing, or DeafBlind and their families; and

(F) appropriate data collection and reporting requirements concerning students with disabilities.

(2) The Advisory Council shall assess the services, resources, and opportunities available to adults and elders in the State who are Deaf, Hard of Hearing, or DeafBlind. It may consider and make recommendations to the General Assembly and the Governor on the following:

(A) the needs of and opportunities for adults and elders within the State who are Deaf, Hard of Hearing, or DeafBlind and their families;

(B) the adequacy and systemic coordination of existing services and resources for adults and elders throughout the State who are Deaf, Hard of Hearing, or DeafBlind and their families;

(C) proposed legislation and administrative rules pertaining to adults and elders who are Deaf, Hard of Hearing, or DeafBlind; and

(D) delivery models in other states as a point of comparison for the adequacy and systemic coordination of Vermont's existing services and resources for adults and elders who are Deaf, Hard of Hearing, or DeafBlind.

(d) Assistance. The Advisory Council shall have the administrative, technical, and legal assistance of the Agencies of Education and of Human Services. The Advisory Council and Department may consult with national experts on education of persons who are Deaf, Hard of Hearing, or DeafBlind as necessary to fulfill their obligations under this section.

(e) Reports. On or before January 15 of each year, notwithstanding 2 V.S.A. § 20(d), the Advisory Council shall submit a written report to the Senate and House Committees on Education, the Senate Committee on Health and Welfare, the House Committee on Human Services, and the Governor with any findings and recommendations. A reading of each report shall be video recorded using ASL to ensure accessibility.

(f) Appointments; meetings.

(1) The Commissioner of Disabilities, Aging, and Independent Living shall convene the first meeting of the Advisory Council on or before July 1, 2016 and shall select interpreting services, computer assisted captioning in real time (CART), or FM listening system for the meeting if a member so requests.

(2) At its first meeting, the Advisory Council shall elect a chair and vice chair.

(3) The Chair shall select interpreting services, CART, or FM listening system for any Advisory Council meeting if a member so requests.

(4) The Advisory Council may meet up to eight times each year to perform its functions under this section. The Secretaries of Education and of Human Services may jointly authorize additional meetings.

(5) The Advisory Council may organize its members into subcommittees to carry out the purposes of this section, including subcommittees designed to address specific age groups within the Deaf, Hard of Hearing, and DeafBlind population.

(g) Reimbursement.

(1) Members of the Advisory Council who are not State employees or otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, payable by the Department.

(2) The Agency of Human Services shall pay for interpreting services, CART, or FM listening systems necessary to conduct all Advisory Council meetings.

(3) The Agency of Education, Department of Health, and Department of Disabilities, Aging and Independent Living shall share costs for interpreting services, CART, or FM listening systems necessary to conduct all Advisory Council subcommittee meetings.

Sec. 2. INTERPRETERS; PROFESSIONAL REGULATION

On or before January 15, 2017, the Vermont Deaf, Hard of Hearing, and DeafBlind Advisory Council shall submit a report to the House Committees on Government Operations and on Human Services and to the Senate Committees on Government Operations and on Health and Welfare regarding its findings and recommendations for legislative action pertaining to the regulation of interpreters by the Secretary of State's Office of Professional Regulation.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Lanpher of Vergennes, for the committee on Appropriations, recommended that the bill ought to pass in concurrence with proposal of amendment as recommended by the committee on Human Services.

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

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Human Services? **Rep. McFaun of Barre Town, Berry of Manchester, Dame of Essex, Fiske of Enosburgh, French of Randolph, Haas of Rochester, Krowinski of Burlington, McCoy of Poultney, Mrowicki of Putney, Pugh of South Burlington and Troiano of Stannard**, moved to amend the recommendation of proposal of amendment offered by the committee on Human Services, as follows:

First: In Sec. 1, in 16 V.S.A. § 1601, in subdivision (2), by striking the second sentence and inserting in lieu thereof the following:

Participation in Deaf Community culture and use of ASL are characteristic of persons who identify as Deaf.

Second: In Sec. 1, in 16 V.S.A. § 1601, by striking subdivision (5) in its entirety and inserting in lieu thereof the following:

(5) "Hard of Hearing" means a reduced level of functional hearing and reliance on residual hearing and technology, including hearing aids, cochlear implants, FM listening systems, and other types of assistive listening devices to communicate via verbal language, with or without use of ASL.

Which was agreed to.

Thereupon, the recommendation of proposal of amendment offered by the committee on Human Services, as amended, was agreed to and third reading was ordered.

Senate Proposal of Amendment Concurred in

H. 261

The Senate proposed to the House to amend House bill, entitled

An act relating to criminal record inquiries by an employer

In Sec. 1, 21 V.S.A. § 495j, in subsection (b), by striking out the subsection in its entirety and inserting a new subsection (b) to read as follows:

(b)(1) An employer may inquire about criminal convictions on an initial employee application form if the following conditions are met:

(A)(i) the prospective employee is applying for a position for which any federal or State law or regulation creates a mandatory or presumptive disqualification based on a conviction for one or more types of criminal offenses; or

(ii) the employer or an affiliate of the employer is subject to an obligation imposed by any federal or State law or regulation not to employ an individual, in either one or more positions, who has been convicted of one or more types of criminal offenses; and

(B) the questions on the application form are limited to the types of criminal offenses creating the disqualification or obligation.

(2) An employer shall be permitted to inquire about criminal convictions on an initial employee application form pursuant to subdivision (1) of this subsection even if the federal or State law or regulation creating an obligation for the employer or its affiliate not to employ an individual who has been convicted of one or more types of criminal offenses also permits the employer or its affiliate to obtain a waiver that would allow the employer or its affiliate to employ such an individual.

Which proposal of amendment was considered and concurred in.

Adjournment

At one o'clock and forty-five 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.