

Journal of the Senate

TUESDAY, MARCH 17, 2015

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Bills Referred to Committee on Appropriations

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

S. 18. An act relating to privacy protection.

S. 42. An act relating to the substance abuse system of care.

S. 102. An act relating to forfeiture of property associated with an animal fighting exhibition.

Joint Senate Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Baruth and Benning,

J.R.S. 19. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 20, 2015, it be to meet again no later than Tuesday, March 24, 2015.

Committee Bills Introduced

Senate committee bills of the following titles were severally introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 137.

By the Committee on Judiciary,

An act relating to penalties for selling and dispensing marijuana.

S. 138.

By the Committee on Economic Development, Housing & General Affairs,

An act relating to promoting economic development.

S. 139.

By the Committee on Health & Welfare,

An act relating to pharmacy benefit managers, hospital observation status, and chemicals of high concern to children.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 140.

By Senators Ashe and Sears,

An act relating to a Vermont false claims act.

To the Committee on Judiciary.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 141.

By the Committee on Judiciary,

An act relating to possession of firearms.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 142.

By Senator Pollina,

An act relating to portability of Vermont Student Assistance Corporation grants and scholarships.

To the Committee on Education.

Bill Amended; Third Reading Ordered

S. 73.

Senator Balint, for the Committee on Economic Development, Housing & General Affairs, to which was referred Senate bill entitled:

An act relating to State regulation of rent-to-own agreements for merchandise.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. § 41b is amended to read:

§ 41b. RENT-TO-OWN AGREEMENTS; DISCLOSURE OF TERMS

~~(a) The attorney general shall adopt by rule standards for the full and conspicuous disclosure to consumers of the terms of rent-to-own agreements. For purposes of this section a rent to own agreement means an agreement for the use of merchandise by a consumer for personal, family, or household purposes, for an initial period of four months or less, that is renewable with each payment after the initial period and that permits the lessee to become the owner of the property. An agreement that complies with this article is not a retail installment sales contract, agreement or obligation as defined in this chapter or a security interest as defined in section 1-201(37) of Title 9A.~~

~~(b) The attorney general, or an aggrieved person, may enforce a violation of the rules adopted pursuant to this section as an unfair or deceptive act or practice in commerce under section 2453 of this title.~~

(a) Definitions. In this section:

(1) "Advertisement" means a commercial message that solicits a consumer to enter into a rent-to-own agreement for a specific item of merchandise that is conveyed:

(A) at a merchant's place of business;

(B) on a merchant's website;

(C) on television or radio.

(2) "Cash price" means the price of merchandise available under a rent-to-own agreement that the consumer may pay in cash to the merchant at the inception of the agreement to acquire ownership of the merchandise.

(3) "Clear and conspicuous" means that the statement or term being disclosed is of such size, color, contrast, or audibility, as applicable, so that the

nature, content, and significance of the statement or term is reasonably apparent to the person to whom it is disclosed.

(4) “Consumer” has the same meaning as in subsection 2451a(a) of this title.

(5) “Merchandise” means an item of a merchant’s property that is available for use under a rent-to-own agreement. The term does not include:

(A) real property;

(B) a mobile home, as defined in section 2601 of this title;

(C) a motor vehicle, as defined in 23 V.S.A. § 4;

(D) an assistive device, as defined in section 41c of this title; or

(E) a musical instrument intended to be used primarily in an elementary or secondary school.

(6) “Merchant” means a person who offers, or contracts for, the use of merchandise under a rent-to-own agreement.

(7) “Merchant’s cost” means the documented actual cost, including actual freight charges, of merchandise to the merchant from a wholesaler, distributor, supplier, or manufacturer and net of any discounts, rebates, and incentives that are vested and calculable as to a specific item of merchandise at the time the merchant accepts delivery of the merchandise.

(8)(A) “Rent-to-own agreement” means a contract under which a consumer agrees to pay a merchant for the right to use merchandise until:

(i) the consumer returns the merchandise to the merchant;

(ii) the merchant retakes possession of the merchandise; or

(iii) the consumer pays the total cost and acquires ownership of the merchandise.

(B) A “rent-to-own agreement” as defined in subdivision (7)(A) of this subsection is not:

(i) a sale subject to 9A V.S.A. Article 2;

(ii) a lease subject to 9A V.S.A. Article 2A;

(iii) a security interest as defined in section 9A V.S.A. § 1-201(a)(35); or

(iv) a retail installment contract or retail charge agreement as defined in chapter 61 of this title.

(9) “Rent-to-own charge” means the difference between the total cost and the cash price of an item of merchandise.

(10) “Total cost” means the sum of all payments, charges, fees, and taxes that a consumer must pay to acquire ownership of merchandise under a rent-to-own agreement. The term does not include charges for optional services or charges due only upon the occurrence of a contingency specified in the agreement.

(b) General requirements.

(1) Prior to execution, a merchant shall give a consumer the opportunity to review a written copy of a rent-to-own agreement that includes all of the information required by this section for each item of merchandise covered by the agreement and shall not refuse a consumer’s reasonable request to review the agreement with a third party, either inside the merchant’s place of business or at another location.

(2) A disclosure required by this section shall be clear and conspicuous.

(3) In an advertisement or rent-to-own agreement, a merchant shall state a numerical amount or percentage as a figure and shall print or legibly handwrite the figure in the equivalent of 12-point type or greater.

(4) A merchant may supply information not required by this section with the disclosures required by this section, but shall not state or place additional information in such a way as to cause the required disclosures to be misleading or confusing, or to contradict, obscure, or detract attention from the required disclosures.

(5) A merchant shall preserve an advertisement, or a digital copy of the advertisement, for not less than two years after the date the advertisement appeared. In the case of a radio, television, or Internet advertisement, a merchant may preserve a copy of the script or storyboard.

(6) A merchant shall make merchandise available to all consumers on the terms and conditions that appear in the advertisement.

(7) A rent-to-own agreement that is substantially modified, including a change that increases the consumer’s payments or other obligations or diminishes the consumer’s rights, shall be considered a new agreement subject to the requirements of this chapter.

(8) For each item of merchandise available under a rent-to-own agreement, a merchant shall keep an electronic or hard copy for a period of six years following the date the merchant ceases to own the merchandise:

(A) each rent-to-own agreement covering the item; and

(B) a record that establishes the merchant's cost for the item.

(9) A rent-to-own agreement executed by a merchant doing business in Vermont and a resident of Vermont shall be governed by Vermont law.

(10) If a rent-to-own agreement includes a provision requiring mediation or arbitration in the event of a dispute, the mediation or arbitration shall occur within Vermont.

(c) Cash price; total cost; maximum limits.

(1) The maximum cash price for an item of merchandise shall not exceed:

(A) for an appliance, 1.75 times the merchant's cost;

(B) for an item of electronics that has a merchant's cost of less than \$150.00, 1.75 times the merchant's cost;

(C) for an item of electronics that has a merchant's cost of \$150.00 or more, 2.00 times the merchant's cost;

(D) for an item of furniture or jewelry, 2.50 times the merchant's cost; and

(E) for any other item, 2.00 times the merchant's cost.

(2) The total cost for an item of merchandise shall not exceed two times the maximum cash price for the item.

(d) Disclosures in advertising. An advertisement shall state:

(1) the cash price of the item;

(2) that the merchandise is available under a rent-to-own agreement;

(3) the amount, frequency, and total number of payments required for ownership;

(4) the total cost for the item;

(5) the rent-to-own charge for the item; and

(6) that the consumer will not own the merchandise until the consumer pays the total cost for ownership.

(e) Disclosures on site. In addition to the information required in subsection (d) of this section, an advertisement at a merchant's place of business shall include:

(1) whether the item is new or used;

(2) when the merchant acquired the item; and

(3) the number of times a consumer has taken possession of the item under a rent-to-own agreement.

(f) Disclosures in rent-to-own agreement.

(1) The first page of a rent-to-own agreement shall include:

(A) a heading in bold-face type that reads: "IMPORTANT INFORMATION ABOUT THIS RENT-TO-OWN AGREEMENT. Do Not Sign this Agreement Before You Read It or If It Contains any Blank Spaces"; and

(B) the following information in the following order:

(i) the name, address, and contact information of the merchant;

(ii) the name, address, and contact information of the consumer;

(iii) the date of the transaction;

(iv) a description of the merchandise sufficient to identify the merchandise to the consumer and the merchant, including any applicable model and identification numbers;

(v) a statement whether the merchandise is new or used, and in the case of used merchandise, a description of the condition of, and any damage to, the merchandise.

(2) A rent-to-own agreement shall include the following cost disclosures, printed and grouped as indicated below, immediately preceding the signature lines:

(1) Cash Price: _____ \$ _____

(2) Payments required to become owner:

\$ /((weekly)(biweekly)(monthly) × (# of payments) = \$ _____

(3) Mandatory charges, fees, and taxes required to become owner (itemize):

_____ \$ _____

_____ \$ _____

_____ \$ _____

Total required taxes, fees, and charges: _____ \$ _____

(4) Total cost: _____ (2) + (3) = \$ _____

(5) Rent-to-Own Charge: _____ (4) - (1) = \$ _____

(g) Required provisions of rent-to-own agreement. A rent-to-own agreement shall provide:

- (1) a statement of payment due dates;
 - (2) a line-item list of any other charges or fees the consumer could be charged or have the option of paying in the course of acquiring ownership or during or after the term of the agreement;
 - (3) that the consumer will not own the merchandise until he or she makes all of the required payments for ownership;
 - (4) that the consumer has the right to receive a receipt for a payment and, upon reasonable notice, a written statement of account;
 - (5) who is responsible for service, maintenance, and repair of an item of merchandise;
 - (6) that, except in the case of the consumer's negligence or abuse, if the merchant must retake possession of the merchandise for maintenance, repair, or service, or the item cannot be repaired, the merchant is responsible for providing the consumer with a replacement item of equal quality and comparable design;
 - (7) the maximum amount of the consumer's liability for damage or loss to the merchandise in the case of the consumer's negligence or abuse;
 - (8) a description of a manufacturer's warranty or other warranty on the merchandise, which may be in a separate document furnished to the consumer;
 - (9) a description of any insurance required of the consumer, or a statement that the consumer is not required to purchase insurance and a description of any insurance purchased by the consumer;
 - (10) an explanation of the consumer's options to purchase the merchandise;
 - (11) an explanation of the merchant's right to repossess the merchandise; and
 - (12) an explanation of the parties' respective rights to terminate the agreement, and to reinstate the agreement.
- (h) Prohibited provisions of rent-to-own agreement. A rent-to-own agreement shall not contain a provision:
- (1) requiring a confession of judgment;
 - (2) requiring a garnishment of wages;
 - (3) authorizing a merchant or its agent to enter unlawfully upon the consumer's premises or to commit any breach of the peace in the repossession of property;

(4) requiring the consumer to waive any defense, counterclaim, or right of action against the merchant or its agent in collection of payment under the agreement or in the repossession of property; or

(5) requiring the consumer to purchase insurance from the merchant to cover the property.

(i) Option to purchase. Notwithstanding any other provision of this section, at any time after the first payment a consumer who is not in violation of a rent-to-own agreement may acquire ownership of the merchandise covered by the agreement by paying an amount equal to the cash price of the merchandise minus 50 percent of the value of the consumer's previous payments.

(j) Collections; repossession of merchandise; prohibited acts. When attempting to collect a debt or enforce an obligation under a rent-to-own agreement, a merchant shall not:

(1) call or visit a consumer's workplace after a request by the consumer or his or her employer not to do so;

(2) use profanity or any language to abuse, ridicule, or degrade a consumer;

(3) repeatedly call, leave messages, knock on doors, or ring doorbells;

(4) ask someone, other than a spouse, to make a payment on behalf of a consumer;

(5) obtain payment through a consumer's bank, credit card, or other account without authorization;

(6) speak with a consumer more than six times per week to discuss an overdue account;

(7) engage in violence;

(8) trespass;

(9) call or visit a consumer at home or work after receiving legal notice that the consumer has filed for bankruptcy;

(10) impersonate others;

(11) discuss a consumer's account with anyone other than a spouse of the consumer;

(12) threaten unwarranted legal action; or

(13) leave a recorded message for a consumer that includes anything other than the caller's name, contact information, and a courteous request that the consumer return the call.

(k) Reinstatement of agreement.

(1) A consumer who fails to make a timely payment may reinstate a rent-to-own agreement without losing any rights or options that exist under the agreement by paying all past-due charges, the reasonable costs of pickup, redelivery, and any refurbishing, and any applicable late fee:

(A) within five business days of the renewal date of the agreement if the consumer pays monthly; or

(B) within three business days of the renewal date of the agreement if the consumer pays more frequently than monthly.

(2) If a consumer promptly returns or voluntarily surrenders merchandise upon a merchant's request, the consumer may reinstate a rent-to-own agreement during a period of not less than 180 days after the date the merchant retakes possession of the merchandise.

(3) In the case of a rent-to-own agreement that is reinstated pursuant to this subsection, the merchant is not required to provide the consumer with the identical item of merchandise and may provide the consumer with a replacement item of equal quality and comparable design.

(l) Reasonable charges and fees. Any charge or fee assessed under a rent-to-own agreement shall be reasonably related to the actual cost to the merchant of the service or hardship for which it is charged.

(m) Prohibition on rent-to-own businesses and licensed lenders. A person engaged in the business of selling merchandise under a rent-to-own agreement subject to this section shall not engage in any conduct or business at the same physical location that would require a license under 8 V.S.A. chapter 73 (licensed lenders).

(n) Enforcement; remedies; damages. A person who violates this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

House Proposal of Amendment Concurred In with Amendment**S. 6.**

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate to amend the bill by striking out 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. ~~in~~ 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.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Benning, Ashe, Nitka, Sears, and White moved that the Senate concur in the House proposal of amendment with the following amendment thereto:

By adding a new section to be numbered Sec. 6 to read as follows:

Sec. 6. 33 V.S.A. § 5284 is amended to read:

§ 5284. DETERMINATION AND ORDER

(a) In a hearing on a motion for youthful offender status, the Court shall first consider whether public safety will be protected by treating the youth as a youthful offender. If the Court finds that public safety will not be protected by treating the youth as a youthful offender, the Court shall deny the motion and return the case to the ~~Family~~ Criminal Division of the Superior Court pursuant to subsection 5281(d) of this title. If the Court finds that public safety will be protected by treating the youth as a youthful offender, the Court shall proceed to make a determination under subsection (b) of this section.

* * *

And by renumbering the remaining section to be numerically correct.

Which was agreed to.

Bill Amended; Third Reading Ordered

S. 115.

Senator Benning, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to expungement of convictions based on conduct that is no longer criminal.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

* * *

(4) “Qualifying crime” means:

(A) a misdemeanor offense which is not a listed crime as defined in subdivision 5301(7) of this title, an offense involving sexual exploitation of children in violation of chapter 64 of this title, an offense involving violation of a protection order in violation of section 1030 of this title, a prohibited act as defined in section 2632 of this title, or a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief; ~~or~~

(C) a violation of section 2501 of this title related to grand larceny; or

(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title.

Sec. 2. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD, POSTCONVICTION; PROCEDURE

~~(a)(1) A person who was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence may file a petition with the Court requesting expungement or sealing of the criminal history record related to the conviction. The State’s Attorney or Attorney General shall be the respondent in the matter. if:~~

(A) the person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence; or

(B)(i) the person was convicted of:

(I) an offense for which the underlying conduct is no longer prohibited by law or the criminal sanctions have been repealed; or

(II) possession of a regulated drug under 18 V.S.A. chapter 84, subchapter 1 in an amount that is no longer prohibited by law or for which criminal sanctions have been repealed; and

(ii) at least one year has elapsed since the completion of any sentence or supervision for the offense, whichever is later.

(2) The State's Attorney or Attorney General shall be the respondent in the matter.

(3) The Court shall grant the petition without hearing if the petitioner and the respondent stipulate to the granting of the petition. The respondent shall file the stipulation with the Court, and the Court shall issue the petitioner a certificate and provide notice of the order in accordance with this section.

(b)(1) The Court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least 10 years previously.

(B) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted for the qualifying crime.

(C) Any restitution ordered by the Court has been paid in full.

(D) The Court finds that expungement of the criminal history record serves the interest of justice.

(E) For petitions filed pursuant to subdivision 7601(4)(D) of this title, the Court finds that the conduct underlying the conviction under section 1201 of this title did not constitute a burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title. The petitioner shall bear the burden of establishing this fact.

(2) The Court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), ~~and (C)~~, and (E) of this subsection are met and the Court finds that:

(A) sealing the criminal history record better serves the interest of justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

(c)(1) The Court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least 20 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction.

(B) The person has not been convicted of a felony arising out of a new incident or occurrence since the person was convicted of the qualifying crime.

(C) The person has not been convicted of a misdemeanor during the past 15 years.

(D) Any restitution ordered by the Court for any crime of which the person has been convicted has been paid in full.

(E) After considering the particular nature of any subsequent offense, the Court finds that expungement of the criminal history record for the qualifying crime serves the interest of justice.

(F) For petitions filed pursuant to subdivision 7601(4)(D) of this title, the Court finds that the conduct underlying the conviction under section 1201 of this title did not constitute a burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title. The petitioner shall bear the burden of establishing this fact.

(2) The Court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), (C), ~~and (D)~~, and (F) of this subsection are met and the Court finds that:

(A) sealing the criminal history record better serves the interest of justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

(d) For petitions filed pursuant to subdivision (a)(1)(B) of this section, the Court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(1) At least one year has elapsed since the completion of any sentence or supervision for the offense, whichever is later.

(2) Any restitution ordered by the Court has been paid in full.

(3) The Court finds that expungement of the criminal history record serves the interest of justice.

(e) For petitions filed pursuant to subdivision (a)(1)(B)(i)(II) of this section:

(1) The petitioner shall bear the burden of establishing that his or her conviction was based on possessing a quantity of regulated drug that is no longer prohibited by law or for which criminal sanctions have been repealed.

(2) There shall be a rebuttable presumption that the weight of the regulated drug specified in the affidavit of probable cause associated with the petitioner's conviction was the amount possessed by the petitioner.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 18.

Joint Senate resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of four Superior Judges and two magistrates.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

Bills Amended; Third Readings Ordered

S. 41.

Senator Sirotkin, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to developing a strategy for evaluating the effectiveness of individual tax expenditures.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. EVALUATION OF TAX EXPENDITURES

(a) The Joint Fiscal Office shall, in consultation with an organization or organizations with experience in the evaluation of tax expenditures, develop a

strategy to evaluate the effectiveness of each Vermont tax expenditure in the report required by 32 V.S.A. § 312. The Joint Fiscal Office shall consider the experiences of other states and shall propose a strategy that identifies but is not limited to:

(1) an appropriate schedule and approach for evaluating tax expenditures;

(2) specific metrics for different tax expenditures based on the statutory purposes;

(3) sources of data and economic models, if any, that are matched to the identified metrics; and

(4) the composition and mandate of an appropriate body, if other than the General Assembly, to consider the effectiveness of tax expenditures.

(b) The Joint Fiscal Office shall present its findings and recommendations as well as an example of a Vermont tax expenditure evaluation to the Senate Committee on Finance and the House Committee on Ways and Means by January 15, 2016. The Joint Fiscal Office shall, in addition to consulting with outside organizations, have the assistance of the Department of Taxes and the Office of Legislative Council.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 93.

Senator White, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to disclosure of lobbying advertisements.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

(a) The effective public disclosure of the identity and extent of the efforts of registered lobbyists, lobbying firms, and lobbyist employers to influence Vermont's legislators and administration officials during the legislative session will increase public confidence in the integrity of the governmental process.

(b) Responsible representative government requires public awareness of the efforts of registered lobbyists, lobbying firms, and lobbyist employers to influence the public decision-making process in both the Legislative and Executive Branches of Vermont's government.

(c) Requiring registered lobbyists, lobbying firms, and lobbyist employers to report significant advertising campaigns that are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action enables the public, legislators, and administrative officials to evaluate better the pressures and content of the message when considering that action.

(d) The lack of detail in current required lobbying disclosure filings does not provide the public, legislators, and administrative officials with enough relevant information about who is attempting to influence the legislative and administrative process through advertising, and the timing of current required lobbying disclosure filings prevents the public, legislators, and administrative officials from evaluating the pressures and content of lobbying advertising at the time public policy is being debated.

(e) Requiring registered lobbyists, lobbying firms, and lobbyist employers to designate clearly the name of the lobbyist, lobbying firm, or lobbyist employer paying for an advertisement within the advertisement allows the public, legislators, and administrative officials to determine who is attempting to influence the legislative and administrative process through advertising, to evaluate the pressures and content of lobbying advertising at the time when public policy is being debated, to trace coordinated advertising buys, and to track such spending over time.

Sec. 2. 2 V.S.A. § 264c is added to read:

§ 264c. IDENTIFICATION IN AND REPORT OF CERTAIN LOBBYING ADVERTISEMENTS

(a) Identification.

(1) An advertisement that is intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action and made at any time prior to final adjournment of a biennial or adjourned legislative session shall contain the name of any lobbyist, lobbying firm, or lobbyist employer that made an expenditure for the advertisement and language that the advertisement was paid for, or paid in part, by the lobbyist, lobbying firm, or lobbyist employer; provided, however, that if there are more than three such names, only the three lobbyists, lobbying firms, or lobbyist employers that made the largest expenditures for the advertisement shall be required to be identified.

(2) This identification information shall appear prominently and in a manner such that a reasonable person would clearly understand by whom the expenditure has been made.

(b) Report.

(1) In addition to any other reports required to be filed under this chapter, a lobbyist, lobbying firm, or lobbyist employer shall file an advertisement report with the Secretary of State if he, she, or it makes an expenditure or expenditures:

(A) for any advertisement that is described in subsection (a) of this section and that has a cost totaling \$1,000.00 or more; or

(B) for any advertising campaign that contains advertisements described in subsection (a) of this section and that has a cost totaling \$1,000.00 or more.

(2) The report shall be made for each advertisement or advertising campaign described in subdivision (1) of this subsection and shall identify the lobbyist, lobbying firm, or lobbyist employer that made the expenditure; the amount and date of the expenditure and to whom it was paid; and a brief description of the advertisement or advertising campaign.

(3) The report shall be filed within 48 hours of the expenditure or the advertisement or advertising campaign, whichever occurs first.

(c) Definitions. As used in this section:

(1) "Advertisement" means any form of advertising, including television, radio, print, and electronic media.

(2) "Advertising campaign" means advertisements substantially similar in nature, regardless of the media in which they are placed.

Sec. 3. 2 V.S.A. § 264 is amended to read:

§ 264. REPORTS OF EXPENDITURES, COMPENSATION, AND GIFTS; EMPLOYERS; LOBBYISTS

(a) Every employer and every lobbyist registered or required to be registered under this chapter shall file disclosure reports with the Secretary of State as follows:

(1) on or before January 15, for the preceding period beginning on July 1 and ending with December 31;

(2) on or before February 15, for the preceding period beginning on January 1 and ending with January 31;

(3) on or before March 15, for the preceding period beginning on February 1 and ending with the last day of February;

(4) on or before April 25 15, for the preceding period beginning on January 1 March 1 and ending with March 31; and

(2)(5) on or before July 25 15, for the preceding period beginning on April 1 and ending with June 30;

(3) on or before January 25, for the preceding period beginning on July 1 and ending with December 31.

* * *

(h) Disclosure reports shall be made on forms published by the Secretary of State and shall be signed by the employer or lobbyist. The Secretary of State shall make those forms available to registered employers and lobbyists on the Secretary's website not later than 30 days before each filing deadline. [Repealed.]

* * *

Sec. 4. 2 V.S.A. § 265 is amended to read:

§ 265. PUBLIC ACCESS; REGISTRATION STATEMENTS; REPORTS SUBMISSION OF AND ACCESS TO LOBBYING DISCLOSURES

The secretary of state shall maintain copies of all lobbyist and employer registration statements and disclosure reports and all lobbying firm disclosure reports arranged alphabetically, which shall be a public record available for public inspection during ordinary business hours. The secretary of state shall also compile and maintain a separate report for each reporting period for each legislator or administrative official indicating the gifts reported to have been given to that legislator or official during the reporting period by employers, lobbyists, or lobbying firms, which shall be a public record available for public inspection during ordinary business hours. On January 1 of each odd-numbered year, the secretary may discard statements and reports that have been maintained for a period of four years.

(a) The Secretary of State shall provide on his or her website an online database of the lobbying disclosures required under this chapter.

(1) In this database, the Secretary shall provide digital access to each form he or she shall provide to enable a person to file the statements or reports required under this chapter. Digital access shall enable such a person to file these lobbying disclosures by completing and submitting the disclosure to the Secretary of State online.

(2) The Secretary shall maintain on the online database all disclosures that have been filed digitally on it so that any person may have direct machine-readable electronic access to the individual data elements in each disclosure and the ability to search those data elements as soon as a disclosure is filed.

(b) Any person required to file a disclosure with the Secretary of State under this chapter shall sign it, declare that it is made under the penalties of perjury, and file it digitally on the online database.

Sec. 5. 2 V.S.A. § 267 is amended to read:

~~§ 267. VERIFICATION OF STATEMENTS AND REPORTS~~

~~Any statement or report required to be made under any provision of this chapter shall contain or be verified by a written declaration that it is made under the penalties of perjury. [Repealed.]~~

Sec. 6. TRANSITIONAL PROVISION; SECRETARY OF STATE; MAINTENANCE OF PRIOR LOBBYING DISCLOSURES

(a) The Secretary of State shall maintain copies of the lobbying reports and registration statements filed with him or her on paper prior to the effective date of this act and the separate report of gifts to legislators and administrative officials he or she compiled under the provisions of 2 V.S.A. § 265 in effect prior to the effective date of this act, and shall make those disclosures available for public inspection during ordinary business hours.

(b) On January 1 of each odd-numbered year, the Secretary may discard the disclosures described in subsection (a) of this section that he or she has maintained for a period of at least four years.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

And that after passage the title of the bill be amended to read:

An act relating to lobbying disclosures.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Committed

Pending entry on the Calendar for notice, on motion of Senator Mullin Senate Committee bill entitled:

S. 138. An act relating to promoting economic development.

Was committed to the Committee on Natural Resources & Energy.

Bill Committed

Pending entry on the Calendar for notice, on motion of Senator Lyons Senate Committee bill entitled:

S. 139. An act relating to pharmacy benefit managers, hospital observation status, and chemicals of high concern to children.

Was committed to the Committee on Appropriations.

Appointment Confirmed

The following Gubernatorial appointment was confirmed separately by the Senate, upon full report given by the Committee to which it was referred:

Waples, Nancy of Hinesburg - Judge, Superior Judge - January 30, 2015, to March 31, 2015.

Election of Senate Members to Judicial Nominating Board

The President announced that the next order of business was the election of three members of the Senate to serve on the Judicial Nominating Board pursuant to 4 V.S.A. §601.

Senator Mazza, on behalf of the Committee on Committees, placed in nomination the names of the following Senators to serve on the Board:

TIMOTHY R. ASHE

of Chittenden District, as the majority party member of the Board.

KEVIN J. MULLIN

of Rutland District, as the minority party member of the Board.

JOHN S. RODGERS

of Essex-Orleans District, as the third member of the Board.

There being no further nominations, on motion of Senator Flory, the nominations were closed, and the Secretary was instructed to cast one ballot for

TIMOTHY R. ASHE

of Chittenden District, as the majority party member of the Board, for a term of two years or until his successor is elected and has qualified.

KEVIN J. MULLIN

of Rutland District, as the minority party member of the Board, for a term of two years or until his successor is elected and has qualified.

JOHN S. RODGERS

of Essex-Orleans District, as the third member of the Board, for a term of two years or until his successor is elected and has qualified.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 18, 2015.