

Journal of the Senate

THURSDAY, APRIL 16, 2015

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Patrick Fitzsimons of White River Junction.

Bill Referred to Committee on Appropriations

H. 20.

House bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to licensed alcohol and drug abuse counselors as participating providers in Medicaid.

Bill Referred to Committee on Finance

H. 35.

House bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to improving the quality of State waters.

Message from the Governor Appointment Referred

A message was received from the Governor, by Susan Allen, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to committee as indicated:

Groveman, Jon of Marshfield - Chair of the Natural Resources Board, - from February 9, 2015, to February 28, 2017.

To the Committee on Natural Resources & Energy.

Message from the Governor

A message was received from His Excellency, the Governor, by Susan Allen, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the tenth day of April, 2015 he approved and signed a bill originating in the Senate of the following title:

S. 2. An act relating to the establishment of a State Latin Motto.

Bill Passed in Concurrence with Proposal of Amendment

H. 141.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to the Organ and Tissue Donation Working Group.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 115.

House proposal of amendment to Senate bill entitled:

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

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. § 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) the person was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense.

(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.

* * *

(d) The Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

(A) The petitioner committed the qualifying crime or crimes prior to reaching 25 years of age.

(B) At least five 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 five years previously.

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

(D) The person successfully completed a term of public service or programming, independent of any service or programming ordered as a part of

the petitioner's sentence for the conviction, and as approved by the Community Justice Network of Vermont, which may include:

(i) community service hours completed without compensation, reparation of harm to the victim, or education regarding ways not to reoffend, or a combination of the three;

(ii) at least one year of service in the U.S. Armed Forces, followed by an honorable discharge or continued service in good standing; or

(iii) at least one year of service in AmeriCorps or another local, state, national, or international service program, followed by successful completion of the program or continued service in good standing.

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

(F) 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) of this section, the Court shall grant the petition and order that the criminal history record be expunged in accordance with 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.

(f) For petitions filed pursuant to subdivision (a)(1)(B) of this section for a conviction for 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 removed:

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

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

(g) Prior to granting an expungement or sealing under this section for petitions filed pursuant to subdivision 7601(4)(D) of this title, the Court shall make a finding 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.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Benning, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Third Reading Ordered

H. 73.

Senator Westman, for the Committee on Finance, to which was referred House bill entitled:

An act relating to the corporate governance structure of insurers.

Reported that the bill ought to pass in concurrence.

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

Proposal of Amendment; Third Reading Ordered

H. 51.

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

An act relating to group-wide supervision of internationally active insurance groups and the establishment of domestic insurers in Vermont.

Reported recommending that the Senate propose to the House to amend the bill in Sec. 4, 8 V.S.A. § 3696, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Notwithstanding any other provision of law to the contrary, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the Commissioner shall acknowledge such official as the supervisor. However, the Commissioner shall make a determination or acknowledgment as to the appropriate supervisor for such group pursuant to subsection (b) of this section in the event of a material change in the group that results in:

(1) the group's insurers domiciled in Vermont holding the largest share of the group's premiums, assets, or liabilities; or

(2) Vermont becoming the place of domicile of the top-tiered insurers in the insurance holding company system of the group.

And that the bill ought to pass in concurrence with such proposal of amendment.

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

Committee Relieved of Further Consideration; Bill Committed

H. 25.

On motion of Senator White, the Committee on Government Operations was relieved of further consideration of House bill entitled:

An act relating to natural burial grounds,

and the bill was committed to the Committee on Economic Development, Housing & General Affairs.

Adjournment

On motion of Senator Baruth, the Senate adjourned until eleven o'clock and thirty minutes in the morning.