

# Journal of the Senate

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**FRIDAY, FEBRUARY 19, 2016**

In the absence of the President (who was Acting Governor in the absence of the Governor) the Senate was called to order by the President *pro tempore*.

## **Devotional Exercises**

Devotional exercises were conducted by the Reverend Rick Swanson of Stowe.

## **Message from the House No. 23**

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 625.** An act relating to extending the exemption from encumbrance on title of properties subject to a pretransition stormwater permit.

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

The House has considered Senate proposal of amendment to the following House bill:

**H. 187.** An act relating to absence from work for health care and safety.

And has severally concurred therein.

## **Message from the House No. 24**

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 249.** An act relating to intermunicipal services.

**H. 539.** An act relating to establishment of a Pollinator Protection Committee.

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

The House has adopted joint resolutions of the following titles:

**H.C.R. 242.** House concurrent resolution recognizing the importance of the Black Lives Matter Movement in the U.S. and Vermont Black communities.

**H.C.R. 243.** House concurrent resolution congratulating the 2015 class of Green Mountain Council Eagle Boy Scouts.

**H.C.R. 244.** House concurrent resolution honoring J. Morgans Steakhouse's bartender, Roderick Vincent O'Brien, for his consummate professional and unfailing courtesy.

**H.C.R. 245.** House concurrent resolution honoring former Juvenile Defender Robert Sheil for his exemplary public service.

**H.C.R. 246.** House concurrent resolution in memory of former Representative Barbara L. Wood of Bethel.

**H.C.R. 247.** House concurrent resolution congratulating the Rutland Regional Medical Center on its receipt of two excellence awards from Healthgrades.

In the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolutions originating in the Senate of the following titles:

**S.C.R. 35.** Senate concurrent resolution congratulating Matt Hynes on being named the 2015-2016 Vermont boys' cross country Gatorade Player of the Year.

**S.C.R. 36.** Senate concurrent resolution honoring Central Vermont Chamber of Commerce President and CEO George Malek.

And has adopted the same in concurrence.

### Bills Referred

House bills of the following titles were severally read the first time and referred:

#### **H. 249.**

An act relating to intermunicipal services.

To the Committee on Government Operations.

#### **H. 539.**

An act relating to establishment of a Pollinator Protection Committee.

To the Committee on Agriculture.

**H. 625.**

An act relating to extending the exemption from encumbrance on title of properties subject to a pretransition stormwater permit.

To the Committee on Natural Resources & Energy.

**Bill Amended; Third Reading Ordered****S. 154.**

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

An act relating to enhanced penalties for assaulting an employee of the Family Services Division of the Department for Children and Families and to criminal threatening.

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. § 1028 is amended to read:

§ 1028. ASSAULT OF LAW ENFORCEMENT OFFICER, FIREFIGHTER, EMERGENCY MEDICAL PERSONNEL MEMBER, MANDATED REPORTER, EMPLOYEE OF FAMILY SERVICES DIVISION OF DEPARTMENT FOR CHILDREN AND FAMILIES, OR HEALTH CARE WORKER; ASSAULT WITH BODILY FLUIDS

(a) A person convicted of a simple or aggravated assault against a law enforcement officer, a firefighter, a health care worker, a mandated reporter as defined in 33 V.S.A. § 4913, an employee of the Family Services Division of the Department for Children and Families, or a member of emergency medical personnel as defined in 24 V.S.A. § 2651(6) while the officer, firefighter, health care worker, mandated reporter, employee of the Family Services Division, or emergency medical personnel member is performing a lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:

- (1) for the first offense, be imprisoned not more than one year;
- (2) for the second offense and subsequent offenses, be imprisoned not more than 10 years.

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(d) For purposes of As used in this section:

- (1) “Health care facility” shall have the same meaning as defined in 18 V.S.A. § 9432(8); and,

(2) "Health care worker" means an employee of a health care facility or a licensed physician who is on the medical staff of a health care facility who provides direct care to patients or who is part of a team-response to a patient or visitor incident involving real or potential violence.

(3) "Performing a lawful duty" for a mandated reporter shall mean performing the mandated reporter's lawful duty under 33 V.S.A. § 4913(c).

(e) This section shall not apply to an individual under 18 years of age residing in a residential rehabilitation facility.

Sec. 2. 13 V.S.A. § 1702 is added to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct intentionally:

(1) threaten another person; and

(2) as a result of the threat, place the other person in reasonable apprehension of death or serious bodily injury.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(c) A person who violates subsection (a) of this section with the intent to prevent another person from reporting to the Department for Children and Families the suspected abuse or neglect of a child shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

(d) As used in this section:

(1) "Serious bodily injury" shall have the same meaning as in section 1021 of this title.

(2) "Threat" and "threaten" shall not include constitutionally protected activity.

(e) Any person charged under this section who is under 18 years of age shall be adjudicated as a juvenile delinquent.

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, and pending the question, Shall the bill be amended as recommended by the Committee on Judiciary?, Senator Baruth moved to strike out Sec. 2 of the recommendation of amendment by the Committee on Judiciary and renumber the remaining section to be numerically correct.

Thereupon, pending the question, Shall the recommendation of amendment of Senator Baruth to the recommendation of amendment of the Committee on Judiciary be adopted?, Senator Baruth requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, the recurring question, Shall the bill be amended as recommended by the Committee on Judiciary was agreed to and third reading of the bill was ordered.

#### **Senate Concurrent Resolutions**

The following joint concurrent resolutions, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted on the part of the Senate:

By Senators Cummings, Doyle, Pollina, Balint and Mullin,

By Representatives Hooper and Kitzmiller,

#### **S.C.R. 35.**

Senate concurrent resolution congratulating Matt Hynes on being named the 2015-2016 Vermont boys' cross country Gatorade Player of the Year.

By Senators Pollina, Cummings and Doyle,

By Representative Hooper and others,

#### **S.C.R. 36.**

Senate concurrent resolution honoring Central Vermont Chamber of Commerce President and CEO George Malek.

#### **House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representative Christie and others,

By Senators Ashe, Balint, Campbell, Campion, Nitka, Pollina, Rodgers, Sears, Snelling, White and Zuckerman,

#### **H.C.R. 242.**

House concurrent resolution recognizing the importance of the Black Lives Matter Movement in the U.S. and Vermont Black communities.

By Representative Fagan and others,

By Senators Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotnik, Snelling, Starr, Westman, White and Zuckerman,

**H.C.R. 243.**

House concurrent resolution congratulating the 2015 class of Green Mountain Council Eagle Boy Scouts.

By Representative Donovan and others,

**H.C.R. 244.**

House concurrent resolution honoring J. Morgans Steakhouse's bartender, Roderick Vincent O'Brien, for his consummate professional and unfailing courtesy.

By Representative Jewett and others,

**H.C.R. 245.**

House concurrent resolution honoring former Juvenile Defender Robert Sheil for his exemplary public service.

By Representative Haas and others,

By Senators Campbell, McCormack, Nitka, Doyle, MacDonald, Mazza, Snelling and Westman,

**H.C.R. 246.**

House concurrent resolution in memory of former Representative Barbara L. Wood of Bethel.

By Representative Cupoli and others,

By Senators Collamore, Flory and Mullin,

**H.C.R. 247.**

House concurrent resolution congratulating the Rutland Regional Medical Center on its receipt of two excellence awards from Healthgrades.

**Adjournment**

On motion of Senator Baruth, the Senate adjourned, to reconvene on Tuesday, February 23, 2016, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 42.