

Journal of the Senate

FRIDAY, APRIL 14, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Rabbi Amy Joy Small of Burlington.

Message from the House No. 44

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 30. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Message from the House No. 45

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following title:

S. 14. An act relating to expanding the Vermont Practitioner Recovery Network.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the thirteenth day of April, 2017 he approved and signed a bill originating in the Senate of the following title:

S. 13. An act relating to fees and costs allowed at a tax sale.

Bill Referred to Committee on Finance

H. 238.

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 modernizing and reorganizing Title 7.

Bill Referred to Committee on Appropriations

H. 326.

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:

H. 326. An act relating to eligibility and calculation of grant or subsidy amount for Reach Up, Reach Ahead, and the Child Care Services Program.

**Message from the Governor
Appointments Referred**

A message was received from the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Boedecker, Emily of Montpelier - Commissioner of the Environmental Conservation, Department of, - from March 1, 2017, to February 28, 2019.

To the Committee on Natural Resources and Energy.

Proposal of Amendment; Third Reading Ordered

H. 265.

Senator Ingram, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to the State Long-Term Care Ombudsman.

Reported recommending that the Senate propose to the House to amend the bill as follows:

By striking out Sec. 3, effective date in its entirety and inserting in lieu thereof three new sections to be numbered Secs. 3, 4 and 5 to read as follows:

Sec. 3. 33 V.S.A. chapter 69, subchapter 3 is redesignated to read:

Subchapter ~~3~~ 4. Vermont Vulnerable Adult Fatality Review Team

Sec. 4. 33 V.S.A. chapter 69, subchapter 3 is added to read:

Subchapter 3. Protecting Against Financial Exploitation

§ 6951. DEFINITIONS

As used in this subchapter:

(1) “Agent” shall have the same meaning as in 14 V.S.A. § 3501.

(2) “Guardian” means a person appointed to serve as the guardian for a vulnerable adult pursuant to the process established in 14 V.S.A. chapter 111 or in 18 V.S.A. chapter 215.

(3) “Financial exploitation” means:

(A) using, withholding, transferring, or disposing of funds or property of a vulnerable adult, without or in excess of legal authority, for the wrongful profit or advantage of another;

(B) acquiring possession or control of or an interest in funds or property of a vulnerable adult through the use of undue influence, harassment, duress, or fraud; or

(C) the act of forcing or compelling a vulnerable adult against his or her will to perform services for the profit or financial advantage of another.

(4) “Vulnerable adult” shall have the same meaning as in section 6902 of this chapter.

§ 6952. CIVIL ACTION FOR RELIEF FROM FINANCIAL EXPLOITATION

(a) Right of action. A vulnerable adult or his or her agent or guardian may bring an action in the Civil Division of the Superior Court pursuant to this section for relief against a natural person who, with reckless disregard or with knowledge, has engaged in the financial exploitation of the vulnerable adult. An action under this section shall be dismissed if the court determines the vulnerable adult is capable of expressing his or her wishes and that he or she does not wish to pursue the action.

(b)(1) Remedies. If the court finds that financial exploitation of a vulnerable adult has occurred, the court shall grant appropriate relief to the vulnerable adult, which may include money damages, injunctive relief, reasonable costs, attorney’s fees, and equitable relief.

(2) If the financial exploitation was intentional, the court may grant exemplary damages not to exceed three times the value of economic damages.

(c) Effects on other parties. No relief granted or otherwise obtained pursuant to this section shall affect or limit in any way the right, title, or interest of a good faith purchaser, mortgagee, holder of a security interest, or other party who obtained an interest in property after its transfer from the vulnerable adult to the natural person who engaged in financial exploitation. No relief granted or otherwise obtained pursuant to this section shall affect any mortgage deed to the extent of the value provided by the mortgagee.

(d) Statute of limitations. The limitations period imposed by 12 V.S.A. § 511 shall apply to all actions brought pursuant to this subchapter. The statute of limitations shall begin running when the vulnerable adult becomes aware of the conduct qualifying as financial exploitation.

§ 6953. OTHER RELIEF STILL AVAILABLE

Nothing in this subchapter shall be construed to limit the availability of other causes of action or relief at law or equity to which a vulnerable adult may be entitled under other State or federal laws or at common law.

Sec. 5. EFFECTIVE DATES

(a) Secs. 1 and 2 (State Long-Term Care Ombudsman) shall take effect on July 1, 2017.

(b) Secs. 3 and 4 (protecting against financial exploitation) and this section shall take effect on passage.

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.

Rules Suspended; Appointment Confirmed

On motion of Senator Ashe, the rules were suspended and the following Gubernatorial appointment was taken up for immediate consideration and confirmed separately by the Senate, upon full report given by the Committee to which it was referred:

The nomination of

Carroll, Karen R. of Vernon - Associate Justice of the Supreme Court - April 1, 2017, to March 31, 2023.

Was confirmed by the Senate on a roll call Yeas 30, Nays 0.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Balint, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Senate Concurrent Resolution

The following joint concurrent resolution, 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, was adopted on the part of the Senate:

By Senators Starr, Ashe, Balint, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Westman and White,

S.C.R. 13.

Senate concurrent resolution congratulating Vermont Technical College on its 150th anniversary and designating April 13, 2017 as Vermont Tech Day.

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 Reps. Ancel and others,

H.C.R. 107.

House concurrent resolution designating April 2017 as Financial Capability Month in Vermont.

By All Members of the House,

By Senators Balint, Benning, Degree, MacDonald and Pollina,

H.C.R. 108.

House concurrent resolution designating Thursday, April 6, 2017 as Alzheimer's Awareness Day at the State House.

By Reps. Stevens and others,

By Senator Clarkson,

H.C.R. 109.

House concurrent resolution congratulating Alison Bechdel of Bolton on being named the third Vermont Cartoonist Laureate.

By Reps. Myers and others,

H.C.R. 110.

House concurrent resolution congratulating the 2017 Essex High School State championship Vermont-NEA Scholars' Bowl team.

By All Members of the House,

H.C.R. 111.

House concurrent resolution congratulating the 2017 Junior Iron Chef championship teams.

By All Members of the House,

By All Members of the Senate,

H.C.R. 112.

House concurrent resolution honoring Alexander L. Aldrich for his two decades of exemplary leadership in the furtherance of the arts in Vermont.

By Rep. Weed,

H.C.R. 113.

House concurrent resolution congratulating Lise Gates of Enosburg Falls on being named a 2017 Mother of Achievement.

By Rep. Bissonnette,

H.C.R. 114.

House concurrent resolution honoring Vermont Air National Guard Chief Master Sergeant John W. Felix III for his distinguished military service.

By Reps. Dickinson and others,

By Senators Branagan and Degree,

H.C.R. 115.

House concurrent resolution honoring Christine Brock of St. Albans for her professional and personal dedication to helping others improve their lives.

By All Members of the House,

By All Members of the Senate,

H.C.R. 116.

House concurrent resolution congratulating the 2017 University of Vermont Catamounts America East championship men's basketball team.

By Rep. Weed,

H.C.R. 117.

House concurrent resolution congratulating the 2017 Enosburg Falls High School Hornets Division II championship boys' basketball team.

By All Members of the House,

H.C.R. 118.

House concurrent resolution recognizing the 3–4–50 chronic disease resource as a valuable preventative health care guide.

By Reps. Morrissey and others,

By Senators Sears and Campion,

H.C.R. 119.

House concurrent resolution commemorating the 240th anniversary of the Battle of Bennington.

By Rep. Devereux,

By Senators Clarkson, McCormack and Nitka,

H.C.R. 120.

House concurrent resolution congratulating the Ludlow Rotary Club on its 90th birthday.

By Reps. Potter and others,

By Senators Collamore, Flory and Mullin,

H.C.R. 121.

House concurrent resolution congratulating the 2017 Proctor High School Phantoms Division IV championship boys' basketball team.

By All Members of the House,

H.C.R. 122.

House concurrent resolution designating April 13, 2017 as Drug Overdose Awareness Day at the State House.

Message from the House No. 46

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 327. An act relating to the charter of the Northeast Kingdom Solid Waste Management District.

H. 356. An act relating to approval of amendments to the charter of the Town of Berlin.

H. 492. An act relating to the Racial Justice Oversight Board.

H. 523. An act relating to fair and impartial policing.

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

The House has considered Senate proposal of amendment to House bill entitled:

H. 42. An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Gardner of Richmond
Rep. Hubert of Milton
Rep. Lewis of Berlin.

The House has considered Senate proposal of amendment to House bill entitled:

H. 171. An act relating to expungement.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Lalonde of South Burlington
Rep. Conquest of Newbury
Rep. Willhoit of St. Johnsbury.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 107. House concurrent resolution designating April 2017 as Financial Capability Month in Vermont.

H.C.R. 108. House concurrent resolution designating Thursday, April 6, 2017 as Alzheimer's Awareness Day at the State House.

H.C.R. 109. House concurrent resolution congratulating Alison Bechdel of Bolton on being named the third Vermont Cartoonist Laureate.

H.C.R. 110. House concurrent resolution congratulating the 2017 Essex High School State championship Vermont-NEA Scholars' Bowl team.

H.C.R. 111. House concurrent resolution congratulating the 2017 Junior Iron Chef championship teams.

H.C.R. 112. House concurrent resolution honoring Alexander L. Aldrich for his two decades of exemplary leadership in the furtherance of the arts in Vermont.

H.C.R. 113. House concurrent resolution congratulating Lise Gates of Enosburg Falls on being named a 2017 Mother of Achievement.

H.C.R. 114. House concurrent resolution honoring Vermont Air National Guard Chief Master Sergeant John W. Felix III for his distinguished military service.

H.C.R. 115. House concurrent resolution honoring Christine Brock of St. Albans for her professional and personal dedication to helping others improve their lives.

H.C.R. 116. House concurrent resolution congratulating the 2017 University of Vermont Catamounts America East championship men's basketball team.

H.C.R. 117. House concurrent resolution congratulating the 2017 Enosburg Falls High School Hornets Division II championship boys' basketball team.

H.C.R. 118. House concurrent resolution recognizing the 3-4-50 chronic disease resource as a valuable preventative health care guide.

H.C.R. 119. House concurrent resolution commemorating the 240th anniversary of the Battle of Bennington.

H.C.R. 120. House concurrent resolution congratulating the Ludlow Rotary Club on its 90th birthday.

H.C.R. 121. House concurrent resolution congratulating the 2017 Proctor High School Phantoms Division IV championship boys' basketball team.

H.C.R. 122. House concurrent resolution designating April 13, 2017 as Drug Overdose Awareness Day at the State House.

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

The House has considered concurrent resolution originating in the Senate of the following title:

S.C.R. 13. Senate concurrent resolution congratulating Vermont Technical College on its 150th anniversary and designating April 13, 2017 as Vermont Tech Day.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, April 17, 2017, at three o'clock in the afternoon pursuant to J.R.S. 30.