

Journal of the Senate

FRIDAY, FEBRUARY 2, 2018

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bill Referred to Committee on Appropriations

S. 280.

Senate 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 the Child Poverty Advisory Council.

Joint Resolution Placed on Calendar

J.R.S. 45.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Ashe,

J.R.S. 45. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2018.

Whereas, in recent years it has become increasingly necessary to shorten the length of time spent by the General Assembly in joint session for the election of various officials, and

Whereas, if elections for multiple vacancies were to be decided by a plurality vote, then a great savings of time can be effectuated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That, notwithstanding the current provisions of Joint Rule 10, and for this election only, the election of two legislative trustees of the Vermont State Colleges Corporation at a Joint Assembly to be held on February 15, 2018, shall be governed by the following procedure:

(1) All candidates for the office of Trustee shall be voted upon and decided on the same ballot; members may vote for any number of candidates up to and including the maximum number of vacancies to be filled, which in this case shall be two.

(2) The two candidates receiving the greater number of votes shall be declared elected to fill the two vacancies.

(3) In the event that the first balloting for the Trustee vacancies results in a tie vote for one or both of the two vacant positions, then voting shall continue on successive ballots for the unfilled position or positions until the vacancies have been filled by election declared of the two candidates receiving the greater number of votes.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Bills Referred

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

H. 549.

An act relating to the Petroleum Cleanup Fund.

To the Committee on Natural Resources and Energy.

H. 566.

An act relating to animal cruelty.

To the Committee on Judiciary.

H. 611.

An act relating to compensation for victims of crime.

To the Committee on Judiciary.

H. 694.

An act relating to captive insurance companies.

To the Committee on Finance.

Bill Amended; Third Reading Ordered

S. 179.

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

An act relating to community justice centers.

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

Sec. 1. 24 V.S.A. § 1964 is amended to read:

§ 1964. STRUCTURE OF THE COMMUNITY JUSTICE BOARDS;
CONFIDENTIALITY OF CERTAIN RESTORATIVE JUSTICE
MEETINGS

(a) Each community justice center:

(1) shall have an advisory board or board of directors comprising at least 51 percent citizen volunteers;

(2) may use a variety of community-based restorative justice approaches, including restorative justice panels, group conferencing, or mediation; and

(3) shall include programs to resolve disputes, address the needs of victims, address the wrongdoing of the offender, and promote the rehabilitation of youthful and adult offenders.

(b) Meetings of restorative justice panels and meetings to conduct restorative justice group conferencing or mediation shall not be subject to the Vermont Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2.

Sec. 2. 24 V.S.A. § 1965 is amended to read:

§ 1965. ~~DUTIES~~ SCOPE OF WORK OF THE COMMUNITY JUSTICE
CENTERS

Each community justice center:

(1) shall work in close coordination with State agencies, law enforcement agencies, State's Attorneys, social service providers, victim advocacy organizations, and other community resources in administering the programs defined in subdivision 1964(a)(3) of this title;

(2) shall, in collaboration with State and local agencies, provide training on ~~the approaches to~~ restorative justice ~~process~~ to citizen volunteers to enable their participation in the local community justice center;

(3) may address ~~quality-of-life~~ quality-of-life issues in the community it serves by providing informational and educational resources to the community; ~~and~~

(4) may apply for funding from private foundations, other governmental sources, or other sources; and

(5) may receive cases referred by:

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- (A) local or State law enforcement prior to filing a charge;
 - (B) the State's Attorney prior to filing a charge; or
 - (C) the court as a part of a sentence or a term of a suspended sentence.

Sec. 3. 24 V.S.A. § 1966 is amended to read:

§ 1966. COMMUNITY JUSTICE CENTERS' RELATIONSHIP WITH
STATE GOVERNMENT ENTITIES

(a) Support from the Agency of Human Services. The Agency of Human Services shall provide to the community justice centers the information, analysis, and technical support that the community justice centers, in collaboration with the Agency of Human Services, determine are necessary to further ~~their~~ the Agency's policy of restorative justice.

(b) Funding from the Agency of Human Services. The Agency of Human Services may provide funding and authorize community justice centers to participate in the implementation of ~~State~~ restorative programs related to juvenile ~~and~~, criminal, and civil offenses.

(c) Access to information. Community justice center employees and volunteers participating in State-funded programs shall have access to information, analysis, and technical support as necessary to carry out their duties within the program in accordance with State and federal confidentiality statutes and policies. Victim information that is not part of the public record shall not be released without the victim's consent.

(d) Liability.

(1) For the purposes of defining liability, community justice center volunteers participating in programs funded by the Agency of Human Services pursuant to subsection (b) of this section shall be considered volunteers of ~~that agency~~ the Agency.

(2) In all other cases, the State ~~and the~~ municipality, or any other entity operating a State-funded community justice center shall each be liable for the acts and omissions of employees operating within the scope of their employment.

Sec. 4. 28 V.S.A. § 910 is amended to read:

§ 910. RESTORATIVE JUSTICE PROGRAM

This chapter establishes a program of restorative justice for use with offenders required to participate in such a program as a condition of a sentence of probation ~~or as ordered for civil contempt of a child support order under 15 V.S.A. § 603~~. The ~~Program~~ program shall be carried out by community

~~reparative boards~~ justice centers under the supervision of the Commissioner, as provided by this chapter.

Sec. 5. 28 V.S.A. § 910a is amended to read:

§ 910a. ~~REPARATIVE BOARDS~~ RESTORATIVE JUSTICE PANELS;
REENTRY; FUNCTIONS

(a) ~~The Commissioner~~ Each community justice center shall establish ~~reparative boards~~ restorative justice panels and appoint to them members of the community with the advice and recommendation of local nonprofit organizations or municipal entities ~~in the localities concerned.~~ The Commissioner shall appoint each board member to a term of one to three years, may reappoint a member to consecutive terms, and may remove a member for good cause. The local probation and parole office and the volunteer services coordinator together shall screen the volunteer prior to the volunteer's commencing service on a restorative justice panel.

(b) ~~Each board shall elect its chair from its membership. A chair may serve for no more than one year uninterrupted. All meetings of a board shall comply with open meeting law requirements of 1 V.S.A. chapter 5, subchapter 2, consistent with probationer confidentiality requirements of this title, and as may be imposed by the court.~~ Each community justice center shall establish a reentry program to address the local needs of the individual probation and parole office. The programs may include navigation services, circles of support and accountability (CoSAs), or other community-based resource and referral services. The community justice center shall appoint to the programs members of the community with the advice and recommendation of local nonprofit organizations or municipal entities. The local probation and parole office and the volunteer services coordinator together shall screen volunteers prior to the volunteer commencing service in the program.

(c) ~~Each board shall adopt bylaws approved by the Commissioner. Such bylaws may authorize each board to establish panels to conduct reparative board activities.~~ [Repealed.]

(d) Each ~~board~~ restorative justice panel or reentry CoSA shall conduct its meetings in a manner that promotes safe interactions among an offender, victim or victims, and community members, and shall:

(1) In collaboration with ~~the Department~~ community organizations, municipalities, the courts, and other entities of the criminal justice system, implement the ~~Restorative Justice Program~~ restorative justice program of seeking to obtain offender accountability, repair harm and compensate a victim or victims and the community, increase an offender's awareness of the effect

of his or her behavior on a victim or victims and the community, and identify ways to help ~~an offender comply~~ offenders' compliance with the law.

(2) Educate the public about, and promote community support for, the ~~Restorative Justice Program~~ restorative justice program.

(e) Each ~~board~~ community justice center shall have access to the central file of any offender required to participate with that ~~board in the Restorative Justice Program~~ panel or reentry program.

(f) When engaged in ~~board~~ restorative justice activities, a ~~board panel or CoSA~~ member shall be considered a volunteer with regard to any grievance or other matter governed by 3 V.S.A. § 1101.

Sec. 6. 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.

Bill Passed

S. 289.

Senate bill entitled:

An act relating to the Vermont Broadband Internet Privacy Act.

Was taken up.

Thereupon, pending third reading of the bill, Senator Brock moved to amend the bill by striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 3 V.S.A. § 349 is added to read:

§ 349. STATE CONTRACTING; INTERNET SERVICE

(a) Certification. The Secretary of Administration shall include in Administrative Bulletin 3.5 a requirement that State procurement contracts for broadband Internet access service, as defined in subdivision 348(d)(3) of this title, include terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in section 348 of this title.

(b) Waiver. Notwithstanding the certification requirement in subsection (a) of this section, the Secretary may waive such requirement if he or she determines that a waiver is the sole option available to mitigate an imminent

threat to the continuity of critical government operations, that the waiver is in the best interests of the State, and that the waiver is first approved by the Emergency Board. A contract entered into pursuant to a waiver shall not exceed the minimum duration necessary to mitigate an imminent threat to the continuity of critical government operations, and shall be rebid as soon as reasonably possible.

(c) Intent. It is the intent of the General Assembly that the Secretary will not seek a waiver under subsection (b) of this section until after he or she has made all reasonable efforts to enter into a contract consistent with the terms and conditions specified in subsection (a) of this section and has determined that, without a waiver, critical functions of government will be at risk.

(d) Publication. The Secretary shall disclose on a publicly available website the names of all Internet service providers awarded government contracts under this section and whether the provider is in compliance with the consumer protection and net neutrality standards in section 348 of this title. If a provider is granted a waiver under subsection (b) of this section, the Secretary shall provide the reasons for granting the waiver.

Which was disagreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 23, Nays 5.

Senator Sirotkin 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, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: *Benning, Branagan, *Brock, Collamore, Soucy.

Those Senators absent and not voting were: Baruth, Flory.

*Senator Benning explained his vote as follows:

“I am in favor of the concept of preserving net neutrality, but I cannot support a bill that I feel has not been properly vetted by our committee of jurisdiction. We should not be passing any bill without fully understanding potential consequences.”

*Senator Brock explained his vote as follows:

“I strongly support the principle of net neutrality. My “No” vote is based on the absence of any effective means to mitigate an imminent threat to the continuity of critical government operations, especially when certain operations are dependent upon a single provider. I believe it would be irresponsible to pass a bill simply to ‘make a statement’.”

Appointments Confirmed

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator White, the following Gubernatorial appointments were confirmed together as a group by the Senate, without reports given by the Committees to which they were referred and without debate:

The nomination of

George, Dean of Middlebury - Chair, Parole Board - July 18, 2017, to February 29, 2020.

Was confirmed by the Senate.

The nomination of

Boyde, Glenn O. of Colchester - Member, State Police Advisory Commission - September 6, 2017, to June 30, 2021.

Was confirmed by the Senate.

The nomination of

DeMag, Alison of South Burlington - Member, State Police Advisory Commission - August 5, 2017, to June 30, 2020.

Was confirmed by the Senate.

The nomination of

Jefferson, Shirley of South Royalton - Member, State Police Advisory Commission - September 6, 2017, to June 30, 2021.

Was confirmed by the Senate.

The nomination of

McKenzie, Mary Alice of Burlington - Member, State Police Advisory Commission - August 5, 2017, to June 30, 2020.

Was confirmed by the Senate.

The nomination of

Pallito, Patti of Richmond - Member, State Police Advisory Commission - September 6, 2017, to June 30, 2021.

Was confirmed by the Senate.

**Appointment of Senate Members of the Legislative Committee on
Administrative Rules**

Pursuant to the provisions of 3 V.S.A. §817, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Legislative Committee on Administrative Rules for terms of two years ending February 1, 2019:

Senator MacDonald
[Senator Sirotkin]
Senator Benning
Senator Lyons
Senator Bray

Message from the House No. 11

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. 132. An act relating to limiting landowner liability for posting the dangers of swimming holes.

H. 271. An act relating to administration of the Supplemental Nutrition Assistance Program.

H. 410. An act relating to adding products to Vermont's energy efficiency standards for appliances and equipment.

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. 233. House concurrent resolution recognizing January 2018 as National Mentoring Month in Vermont.

H.C.R. 234. House concurrent resolution designating Wednesday, January 31, 2018 as Mental Health Advocacy Day at the State House.

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

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

J.R.S. 44. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

And has adopted the same in concurrence.

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 All Members of the House,

H.C.R. 233.

House concurrent resolution recognizing January 2018 as National Mentoring Month in Vermont.

By the House Committee on Health Care,

H.C.R. 234.

House concurrent resolution designating Wednesday, January 31, 2018 as Mental Health Advocacy Day at the State House.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, February 6, 2018, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 43.