

Journal of the Senate

TUESDAY, APRIL 10, 2018

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Adrienne Carr of Underhill.

Pledge of Allegiance

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

Senate Bill Committed

H. 771.

House bill entitled:

An act relating to the Vermont National Guard.

Was taken up.

Thereupon, appearing on the Calendar for notice, on motion of Senator Kitchel, the bill was committed to the Committee on Appropriations.

Message from the Governor Appointment Referred

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

Boucher, Patricia LaBier of Enosburg Falls - Member of the Parole Board - from April 4, 2018 to February 28, 2021.

To the Committee on Institutions.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 55.

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

By Senator Ashe,

J.R.S. 55. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 13, 2018, it be to meet again no later than Tuesday, April 17, 2018.

Bill Passed in Concurrence**H. 843.**

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

An act relating to technical corrections.

Third Reading Ordered**H. 673.**

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

An act relating to miscellaneous amendments to the Reach Up program.

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.

Proposals of Amendment; Third Reading Ordered**H. 551.**

Senator Flory, for the Committee on Institutions, to which was referred House bill entitled:

An act relating to flying the Green Mountain Boys Flag at the State House.

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

First: By adding a new Sec. 5 to read as follows:

Sec. 5. 1 V.S.A. § 496c is added to read:

§ 496c. POW-MIA FLAG; FLYING ON STATE FLAGPOLES

The State of Vermont shall fly on State-owned flagpoles, where practicable, the National League of Families Prisoner of War and Missing in Action Flag, as designated in 36 U.S.C. § 189, provided the flag is donated.

Second: By adding a Sec. 6 to read as follows:

Sec. 6. 1 V.S.A. § 496d is added to read

496d. FLAG PROTOCOL

The Department of Buildings and General Services shall adopt and update as necessary a protocol for the flying of any flag on a State-owned flagpole and on municipally owned flagpoles if statutorily directed. The protocol shall incorporate any existing flag-flying policies or protocols that the Department has previously adopted.

Third: By adding a Sec. 7 to read as follows:

Sec. 7. REPEAL

29 V.S.A. § 7 (POW-MIA flag) is repealed.

And by renumbering the remaining section to be numerically correct

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

An act relating to flags and flag-flying protocol

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

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

Proposal of Amendment; Third Readings Ordered**H. 566.**

Senator Sears, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to animal cruelty.

Reported recommending that the Senate propose to the House 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. § 352 is amended to read:

§ 352. CRUELTY TO ANIMALS

A person commits the crime of cruelty to animals if the person:

(1) ~~intentionally~~ Intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;

(2) ~~overworks~~ Overworks, overloads, tortures, torments, abandons, administers poison to, cruelly ~~beats~~ harms or mutilates an animal, or exposes a poison with intent that it be taken by an animal;

(3) ~~ties~~ Ties, tethers, or restrains an animal, either a pet or livestock, in a manner that is inhumane or is detrimental to its welfare. Livestock and poultry husbandry practices are exempted;

(4) ~~deprives~~ Deprives an animal ~~which~~ that a person owns, possesses, or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;

(5)(A) ~~owns~~ Owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, ~~or~~; possesses, keeps, or trains any animal with intent that it be engaged in an exhibition of fighting; or permits any such act to be done on premises under his or her charge or control; ~~or~~.

(B) ~~owns~~ Owns, possesses, ships, transports, delivers, or keeps a device, equipment, or implement for the purpose of training or conditioning an animal for participation in animal fighting, or enhancing an animal's fighting capability.

(6) ~~aets~~ Acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;

(7) ~~as~~ As poundkeeper, officer, or agent of a humane society or as an owner or employee of an establishment for treatment, board, or care of an animal, knowingly receives, sells, transfers, or otherwise conveys an animal in his or her care for the purpose of research or vivisection;

(8) ~~intentionally~~ Intentionally torments or harasses an animal owned or engaged by a police department or public agency of the State or its political subdivisions, or interferes with the lawful performance of a police animal;

(9) ~~knowingly~~ Knowingly sells, offers for sale, barter, or displays living baby chicks, ducklings, or other fowl ~~which~~ that have been dyed, colored, or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;

(10) ~~uses~~ Uses a live animal as bait or lure in a race, game, or contest, or in training animals in a manner inconsistent with 10 V.S.A. Part 4 or the rules adopted thereunder;

(11)(A) ~~engages~~ Engages in sexual conduct with an animal;

(B) ~~possesses~~ Possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that it be used for sexual conduct;

(C) ~~organizes~~ Organizes, promotes, conducts, aids, abets, or participates in as an observer an act involving any sexual conduct with an animal;

(D) ~~causes~~ Causes, aids, or abets another person to engage in sexual conduct with an animal;

(E) ~~permits~~ Permits sexual conduct with an animal to be conducted on premises under his or her charge or control; ~~or~~

(F) ~~advertises~~ Advertises, offers, or accepts the offer of an animal with the intent that it be subject to sexual conduct in this State.

Sec. 1a. 13 V.S.A. § 353(a) is amended to read:

(a) Penalties.

* * *

(5) A person who violates § 352(1) of this title by intentionally killing or attempting to kill an animal belonging to another or § 352(2) of this title by torturing, administering poison to, or cruelly ~~beating~~ harms or mutilating an animal shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

Sec. 2. EFFECTIVE DATE

This act 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.

H. 874.

Senator Rodgers, for the Committee on Institutions, to which was referred House bill entitled:

An act relating to inmate access to prescription drugs.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 801 is amended to read:

§ 801. MEDICAL CARE OF INMATES

* * *

(e)(1) Except as otherwise provided in this subsection, an offender who is admitted to a correctional facility while under the medical care of a licensed physician, a licensed physician assistant, or a licensed advanced practice

registered nurse, ~~or a licensed nurse practitioner~~ and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, ~~a licensed nurse practitioner~~, or a licensed advanced practice registered nurse.

(2) ~~However,~~ Notwithstanding subdivision (1) of this subsection, the Department may defer provision of a validly prescribed medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, ~~a nurse practitioner~~, or an advanced practice registered nurse, it is not ~~in the inmate's best interest~~ medically necessary to continue the medication at that time.

(3) The licensed practitioner who makes the clinical judgment to discontinue a medication shall enter cause the reason for the discontinuance to be entered into the inmate's permanent medical record, specifically stating the reason for the discontinuance. The inmate shall be provided, both orally and in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have his or her community-based prescriber notified of the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(4) It is not the intent of the General Assembly that this subsection shall create a new or additional private right of action.

* * *

Sec. 2. DATA COLLECTION

(a) The Department of Corrections shall collect information on: how often a medication for which an inmate has a valid prescription is continued or discontinued upon incarceration at each correctional facility, the name of the medication, and the reason for discontinuance.

(b) The Department shall collect this information for a period of at least six months and provide a written report of its findings based on the data collected, including a breakdown by correctional facility of record, to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on or before January 31, 2019. Prior to finalizing the report, the Department shall consult with the Prisoners' Rights Office and Disability Rights Vermont.

(c) Nothing in this section shall require the Department to reveal individually identifiable health information in violation of State or federal law.

Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 2 shall take effect on passage.

(b) Sec. 1 shall take effect on July 1, 2018.

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.

Proposals of Amendment; Third Reading Ordered

H. 906.

Senator Clarkson, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to professional licensing for service members and veterans.

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

First: In Sec. 1, 26 V.S.A. § 906(c)(3), after the following: “has completed a minimum of 8,000 hours and four years of active duty field work” by inserting the following: as a 12R Electrician or equivalent

Second: In Sec. 3, 26 V.S.A. 2194(b)(3), after the following: “has completed a minimum of 8,000 hours and four years of active duty field work” by inserting the following: as a 12K Plumber or equivalent

Third: After Sec. 7, by inserting a Sec. 8 to read as follows:

Sec. 8. REPORTING; UTILIZATION BY SERVICE MEMBERS AND VETERANS

(a) The Executive Director of the Division of Fire Safety shall, on or before February 1 of each year, report to the House Committees on Commerce and Economic Development, on General, Housing, and Military Affairs, and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations regarding:

(1) the number of journeyman electrician licenses issued to service members and veterans pursuant to 26 V.S.A. § 906(c) during the previous calendar year;

(2) the number of journeyman plumber licenses issued to service members and veterans pursuant to 26 V.S.A. § 2194(b) during the previous calendar year; and

(3) the number of instances during the previous calendar year in which the Electrician's Licensing Board, in determining the qualifications of a service member or veteran for a master electrician license, gave recognition to an applicant's experience as a 12R Electrician or equivalent in the U.S. Armed Forces as required by 26 V.S.A. § 907(b).

(b) The Director of the Office of Professional Regulation shall, on or before February 1 of each year, report to the House Committees on Commerce and Economic Development, on General, Housing, and Military Affairs, and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations regarding:

(1) the number of licenses to practice as a registered nurse issued to service members and veterans pursuant to 26 V.S.A. § 1622(b) during the previous calendar year; and

(2) the number of licenses to practice as a nursing assistant issued to service members and veterans pursuant to 26 V.S.A. § 1643(b) during the previous calendar year.

(c) The Commissioner of Motor Vehicles shall, on or before February 1 of each year, report to the House Committees on Commerce and Economic Development, on General, Housing, and Military Affairs, and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations regarding the number of service members and veterans who, during the previous calendar year, were certified to perform inspections without being required to pass an examination as provided pursuant to 23 V.S.A. § 1227(b)(2).

(d) The Commissioner of Health shall, on or before February 1 of each year, report to the House Committees on Commerce and Economic Development, on General, Housing, and Military Affairs, and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations regarding the number of service members and veterans who, during the previous calendar year, were deemed to have knowledge of the prevention of food-borne disease, be able to apply the Hazard Analysis Critical Control Point principles, and have met the criteria for "demonstration of knowledge" requirements set forth by the Department of Health in rule for the purposes of obtaining a food establishment license as provided pursuant to 18 V.S.A. § 4303(b) and the total

number of food establishment licenses issued to those service members and veterans.

And by renumbering the remaining section to be numerically correct.

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

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

Joint Resolution Adopted in Concurrence

J.R.H. 16.

Joint House resolution entitled:

Joint resolution authorizing the Green Mountain Girls State educational program to use the State House.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

Adjournment

On motion of Senator Mazza, the Senate adjourned until one o'clock in the afternoon on Wednesday, April 11, 2018.