

Journal of the Senate

FRIDAY, APRIL 13, 2018

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Mark Pitton of Sharon.

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 bills originating in the Senate of the following titles:

S. 164. An act relating to establishing the Unused Prescription Drug Repository Program.

S. 182. An act relating to the investment authority of municipal trustees of public funds.

S. 237. An act relating to providing representation to needy persons concerning immigration matters.

S. 282. An act relating to health care providers participating in Vermont's Medicaid program.

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

The Governor has informed the House that on the April 11, 2018, he approved and signed bills originating in the House of the following titles:

H. 422. An act relating to removal of firearms from a person arrested or cited for domestic assault.

H. 829. An act relating to appointing town grand jurors.

H. 846. An act relating to the application of general law to chartered municipalities.

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 considered Senate proposals of amendment to House bill of the following title:

H. 562. An act relating to parentage proceedings.

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

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

Rep. Lalonde of South Burlington
Rep. Grad of Moretown
Rep. Dickinson of St. Albans Town

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

H.C.R. 316. House concurrent resolution congratulating the 2018 Mount St. Joseph Academy Mounties on winning a fourth consecutive Division IV girls' basketball championship.

H.C.R. 317. House concurrent resolution congratulating the 2018 Windsor High School Yellowjackets Division III championship girls' basketball team.

H.C.R. 318. House concurrent resolution congratulating the 2018 St. Johnsbury Academy Hilltoppers State championship boys' alpine skiing team.

H.C.R. 319. House concurrent resolution congratulating the Boys & Girls Clubs of Vermont's 2018 Youth of the Year honorees.

H.C.R. 320. House concurrent resolution recognizing the centrality of small business in the growth and prosperity of the Vermont economy.

H.C.R. 321. House concurrent resolution commemorating the 50th anniversary of the federal Fair Housing Act and designating April 2018 as Fair Housing Month in Vermont.

H.C.R. 322. House concurrent resolution congratulating the 2018 Jr Iron Chef VT winning teams.

H.C.R. 323. House concurrent resolution designating Tuesday, April 10, 2018 as Equal Pay Day.

H.C.R. 324. House concurrent resolution congratulating the 2018 Vermont FARMS 2+2 program for its contribution to Vermont's agricultural heritage and the program's 2018 scholarship recipients.

H.C.R. 325. House concurrent resolution honoring Rutland Superintendent of Schools Mary Moran on her extraordinary 47-year career in public education.

H.C.R. 326. House concurrent resolution congratulating Owen Pelletier of Rivendell Academy on being named a 2017 Valley News High School Athlete of the Year.

H.C.R. 327. House concurrent resolution honoring Chittenden community leader Robert Bearor.

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

Proposal of Amendment; Third Reading Ordered

H. 27.

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

An act relating to eliminating the statute of limitations on prosecutions for sexual assault.

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. § 1386 is added to read:

§ 1386. EMPLOYMENT AGREEMENTS

In accordance with 21 V.S.A. § 306, it is the policy of the State of Vermont that no confidential employment separation agreement shall inhibit the disclosure to prospective employers of factual information about a prospective employee's background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a vulnerable adult or minor.

Sec. 2. 16 V.S.A. § 253 is amended to read:

§ 253. CONFIDENTIALITY OF RECORDS

(a) Criminal records and criminal record information received under this subchapter are designated confidential unless, under State or federal law or regulation, the record or information may be disclosed to specifically designated persons.

(b) The Secretary, a superintendent, or a headmaster may disclose criminal records and criminal record information received under this subchapter to a qualified entity upon request, provided that the qualified entity has signed a user agreement and received authorization from the subject of the record request. As used in this section, “qualified entity” means an individual, organization, or governmental body doing business in Vermont that has one or more individuals performing services for it within the State and that provides care or services to children, persons who are elders, or persons with disabilities as defined in 42 U.S.C. § 5119c.

(c) In accordance with 21 V.S.A. § 306, a board member, superintendent, or headmaster shall not enter into on behalf of a supervisory union, school district, or recognized or approved independent school a confidential employment separation agreement that inhibits the disclosure to prospective employers of factual information about a prospective employee’s background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a minor. Notwithstanding any provision of law to the contrary under 33 V.S.A. chapter 49, a board member, superintendent, or headmaster and employees of a supervisory union, school district, or recognized or approved independent school shall provide factually correct information concerning a former employee’s employment record with the supervisory union, school district, or recognized or approved independent school to a prospective employer of that individual if requested by the prospective employer. Nothing in this subsection shall permit the disclosure of information that is prohibited from disclosure by subsection (b) of this section. Notwithstanding any provision of law to the contrary, a person shall not be subject to civil or criminal liability for disclosing information that is required by this section to be disclosed if the person was acting in good faith and reasonably believed at the time of disclosure that the information disclosed was factually correct.

Sec. 3. COMMITTEE FOR PROTECTING STUDENTS FROM SEXUAL EXPLOITATION

(a) Creation. There is created the Committee for Protecting Students from Sexual Exploitation.

(b) Membership. The Committee shall be composed of the following ten members:

(1) the Secretary of Education or designee;

(2) the Executive Director of the Vermont School Boards Association or designee;

(3) the Executive Director of the Vermont Independent Schools Association or designee;

(4) the Executive Director of the Vermont National Educators Association or designee;

(5) the Executive Director of Child Abuse Vermont or designee;

(6) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(7) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;

(8) the Defender General or designee;

(9) the Commissioner for Children and Families or designee; and

(10) the Executive Director of the Vermont Superintendents Association or designee.

(c) Powers and duties. The Committee, in consultation with school personnel, shall:

(1) develop a model policy for adoption by public schools and recognized and approved independent schools, as defined in 16 V.S.A. § 11, on electronic communications between school employees and students, designed to prevent improper communications; and

(2) recommend whether behaviors by an employee of, or contractor for, a public school or recognized or approved independent school designed to establish a romantic or sexual relationship with a child or a student, so called "grooming behaviors," should be unlawful under Vermont law, and, if the Committee recommends that grooming behaviors should be unlawful, shall include in its recommendation:

(A) how grooming behaviors should be defined;

(B) whether all students or children in a school environment should be covered;

(C) whether the behavior should result in a misdemeanor or a felony, and the related punishment; and

(D) the statute of limitations for bringing a related action.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Report. On or before October 15, 2019, the Committee shall submit a written report to the House and Senate Committees on Education and on Judiciary with its findings and any recommendations.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Committee to occur on or before July 15, 2018.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on October 16, 2019.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to sexual exploitation of students

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

Senator Benning, for the Committee on Education, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Judiciary with the following amendments thereto:

First: In 1, Sec. 13 V.S.A. § 1386, (employment agreements), after the words "prospective employers" by inserting the words or responsible licensing entities.

Second: In Sec. 2, 16 V.S.A. § 253, (confidentiality of records), subsection (c) in the first sentence, after the words "prospective employers" by inserting the words or responsible licensing entities

Third: By adding a new Sec. 4 to read as follows:

Sec. 4. 21 V.S.A. § 306 is amended to read:

§ 306. PUBLIC POLICY OF THE STATE OF VERMONT; EMPLOYMENT SEPARATION AGREEMENTS

In support of the State's fundamental interest in protecting the safety of minors and vulnerable adults, as defined in 33 V.S.A. § 6902, it is the policy of the State of Vermont that no confidential employment separation agreement shall inhibit the disclosure to prospective employers or responsible licensing entities of factual information about a prospective employee's background that

would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a minor or vulnerable adult. Any provision in an agreement entered into on or after the effective date of this section that attempts to do so is void and unenforceable.

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, and the recommendation of proposal of amendment of the Committee on Judiciary was amended as recommended by the Committee on Education.

Thereupon, the proposal of amendment recommended by the Committee on Judiciary, as amended, was agreed to and third reading of the bill was ordered.

Third Reading Ordered

H. 199.

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

An act relating to reinstating legislative members to the Commission on Alzheimer's Disease and Related Disorders.

Reported that the bill ought to pass in concurrence.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, 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.

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

Bailey, Richard of Hyde Park - Member, Transportation Board - March 1, 2018, to February 28, 2021.

Was confirmed by the Senate.

The nomination of

Markowski, David of Florence - Member, Transportation Board - March 1, 2018, to February 28, 2021.

Was confirmed by the Senate.

The nomination of

Besio, Nathan of Colchester - Member, Human Rights Commission - January 5, 2018, to February 28, 2022.

Was confirmed by the Senate.

The nomination of

Christie, Kevin of White River Junction - Chair, Human Rights Commission - March 1, 2018, to February 28, 2023.

Was confirmed by the Senate.

The nomination of

Coen, David of Shelburne - Chair, Transportation Board - March 1, 2018 to February 28, 2021.

Was confirmed by the Senate.

Appointment Confirmed

The following Gubernatorial appointment was confirmed by the Senate, upon a full report given by the Committee to which it was referred:

The nomination of

Lorman, Joseph M. of Rutland - Magistrate, Family Court - November 6, 2017, to March 31, 2023.

Was confirmed by the Senate on a roll call, Yeas 27, 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, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Benning, Kitchel, Soucy.

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. Howard and others,

By Senators Collamore, Flory and Soucy,

H.C.R. 316.

House concurrent resolution congratulating the 2018 Mount St. Joseph Academy Mounties on winning a fourth consecutive Division IV girls' basketball championship.

By Reps. Belaski and Bartholomew,

By Senators Clarkson, McCormack and Nitka,

H.C.R. 317.

House concurrent resolution congratulating the 2018 Windsor High School Yellowjackets Division III championship girls' basketball team.

By Reps. Beck and others,

By Senators Kitchel and Benning,

H.C.R. 318.

House concurrent resolution congratulating the 2018 St. Johnsbury Academy Hilltoppers State championship boys' alpine skiing team.

By Reps. Donovan and others,

H.C.R. 319.

House concurrent resolution congratulating the Boys & Girls Clubs of Vermont's 2018 Youth of the Year honorees.

By Reps. Botzow and Marcotte,

By Senators Sirotkin and Clarkson,

H.C.R. 320.

House concurrent resolution recognizing the centrality of small business in the growth and prosperity of the Vermont economy.

By Reps. Head and others,

H.C.R. 321.

House concurrent resolution commemorating the 50th anniversary of the federal Fair Housing Act and designating April 2018 as Fair Housing Month in Vermont.

By Reps. Sibilila and others,

H.C.R. 322.

House concurrent resolution congratulating the 2018 Jr Iron Chef VT winning teams.

By Reps. Burke and others,

By Senators Balint, Clarkson, Ingram, Pearson and White,

H.C.R. 323.

House concurrent resolution designating Tuesday, April 10, 2018 as Equal Pay Day.

H.C.R. 324.

House concurrent resolution congratulating the 2018 Vermont FARMS 2+2 program for its contribution to Vermont's agricultural heritage and the program's 2018 scholarship recipients.

By Reps. Fagan and others,

By Senators Collamore, Flory and Soucy,

H.C.R. 325.

House concurrent resolution honoring Rutland Superintendent of Schools Mary Moran on her extraordinary 47-year career in public education.

By Reps. Copeland-Hanzas and others,

H.C.R. 326.

House concurrent resolution congratulating Owen Pelletier of Rivendell Academy on being named a 2017 Valley News High School Athlete of the Year.

By Rep. Harrison,

By Senators Collamore, Flory and Soucy,

H.C.R. 327.

House concurrent resolution honoring Chittenden community leader Robert Bearor.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, April 17, 2018, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 55.