

Journal of the House

Thursday, March 21, 2019

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Nick Bartell, Montpelier Church of Christ, Berlin, VT.

House Bill Introduced

H. 535

By Reps. Burke of Brattleboro, Kornheiser of Brattleboro and Toleno of Brattleboro,

House bill, entitled

An act relating to approval of amendments to the charter of the Town of Brattleboro;

Was read the first time and referred to the committee on Government Operations.

Committee Bill Introduced

H. 536

By the committee on Education,

An act relating to education finance;

Was read the first time and pursuant to House rule 48, bill placed on the Calendar for notice.

Bill Referred to Committee on Appropriations

H. 513

House bill, entitled

An act relating to broadband deployment throughout Vermont

Appearing on the Calendar, carrying an appropriation, under rule 35(a), was referred to the committee on Appropriations.

Rules Suspended; Bill Committed**H. 205**

On motion of **Rep. Bartholomew of Hartland**, the rules were suspended and House bill, entitled

An act relating to An act relating to the regulation of neonicotinoid pesticides;

Appearing on the Calendar for notice, was taken up for immediate consideration.

Thereupon, the bill was committed to the committee on Appropriations on motion of **Rep. Bartholomew of Hartland**.

Rules Suspended; Bill Committed**H. 524**

On motion of **Rep. Lippert of Hinesburg**, the rules were suspended and House bill, entitled

An act relating to An act relating to health insurance and the individual mandate;

Pending entry on the Calendar for notice, was taken up for immediate consideration.

Thereupon, the bill was committed to the committee on Appropriations on motion of **Rep. Lippert of Hinesburg**.

**Committee Bill; Second Reading;
Bill Amended; Third Reading Ordered****H. 525**

Rep. Graham of Williamstown spoke for the committee on Agriculture and Forestry.

House bill entitled

An act relating to miscellaneous agricultural subjects

Having appeared on the Calendar one day for notice, was taken up, read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Emmons of Springfield** moved to amend the bill as follows:

First: By striking out Sec. 9 (funding for Vermont Environmental Stewardship Program) in its entirety and inserting in lieu thereof the following new Sec. 9 to read as follows:

Sec. 9. FUNDING VERMONT ENVIRONMENTAL STEWARDSHIP
PROGRAM

In addition to the existing capital and noncapital financial assistance that may be available to a farmer from the Agency of Agriculture, Food and Markets, the Agency of Agriculture, Food and Markets separately may use funds available to the Agency and eligible for use for water quality programs or projects to provide noncapital financial incentives to Vermont farmers participating in the Vermont Environmental Stewardship Program to implement regenerative farming practices to achieve certification as a Certified Vermont Environmental Steward.

Second: By striking out Sec. 10, 6 V.S.A. § 4829, and its reader assistance heading in their entirety and inserting in lieu thereof a new Sec. 10 and reader assistance heading to read as follows:

* * * Conservation Reserve Enhancement Program * * *

Sec. 10. 6 V.S.A. § 4829 is added to read:

§ 4829. CONSERVATION RESERVE ENHANCEMENT PROGRAM

(a) The Conservation Reserve Enhancement Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance for the implementation of alternative nutrient reduction practices that improve soil quality, improve nutrient retention, and reduce agricultural waste discharges. The Agency of Agriculture, Food and Markets may approve one or more of the following practices for participation in the program:

(1) riparian forest buffers;

(2) grassed waterways;

(3) grassed filter strips; or

(4) other practices approved by the Secretary and administered through a memorandum of understanding with the Commodity Credit Corporation.

(b) Grant agreements entered into under this section shall at a minimum have a term of 15 years in duration and can include permanent easements.

(c)(1) The Agency of Agriculture, Food and Markets shall use capital funding available to the Agency and eligible for use for water quality programs or projects to provide financial assistance to Vermont farmers to complete practices approved by the Agency for participation in the program under subdivisions (a)(1)–(3) of this section.

(2) The Agency shall use noncapital funds eligible for use for water quality programs or projects to provide financial assistance to Vermont farmers to complete practices approved by the Agency for participation in the program under subdivision (a)(4) of this section.

Third: By striking out Sec. 11, 6 V.S.A. § 4830, and its reader assistance heading in its entirety and inserting in lieu thereof a new Sec. 11 and reader assistance to read as follows:

* * * Ecosystem Services Incentive Program * * *

Sec. 11. 6 V.S.A. § 4830 is added to read:

§ 4830. ECOSYSTEM SERVICES INCENTIVE PROGRAM

(a) The Ecosystem Services Incentive Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance for the implementation of alternative nutrient reduction practices that improve soil quality, nutrient retention, and reduce agricultural waste discharges. The Agency of Agriculture, Food and Markets may approve one or more of the following practices for participation in the program:

- (1) conservation easements;
- (2) land acquisition;
- (3) farm structure decommissioning;
- (4) site reclamation;
- (5) payments for ecosystem services; or

(6) issue a grant as an in-lieu payment not to exceed \$200,000.00 as an alternative to the best management practice program implementation to otherwise address the same conservation issues for an equivalent or longer term.

(b) The Agency of Agriculture, Food and Markets shall use funds available to the Agency and eligible for use for water quality programs or projects to provide financial assistance to Vermont farmers, provided that:

(1) the Agency may use capital funds to provide financial assistance for practices approved under subdivisions (a)(1)–(4) of this section if the practice is:

- (A) performed in conjunction with a term agreement of not less than 15 years in duration or a permanent easement protecting the investment; and
- (B) abating a water quality resource concern on a farm;

(2) the Agency shall not use capital funds to provide financial assistance for a practice approved under subdivision (a)(5) of this section; and

(3) the Agency may use capital funds to provide financial assistance for a practice approved under subdivision (a)(6) of this section only upon the approval of the State Treasurer.

Which was agreed to and third reading ordered.

Third Reading; Bill Passed

H. 83

House bill, entitled

An act relating to female genital mutilation

Was taken up, read the third time and passed.

Third Reading; Bill Passed

H. 351

House bill, entitled

An act relating to workers' compensation, unemployment insurance

Was taken up, read the third time and passed.

Third Reading; Bill Passed

H. 132

House bill, entitled

An act relating to adopting protections against housing discrimination for victims of domestic and sexual violence

Was taken up, read the third time and passed.

Third Reading; Bill Passed

H. 436

House bill, entitled

An act relating to international wills

Was taken up, read the third time and passed.

Third Reading; Bill Passed

H. 523

House bill, entitled

An act relating to miscellaneous changes to the State's retirement systems

Was taken up, read the third time and passed.

Committee Bill; Second Reading; Third Reading Ordered**H. 527**

Rep. Scheu of Middlebury spoke for the committee on Ways and Means.

House bill entitled

An act relating to Executive Branch and Judicial Branch fees

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Committee Bill; Second Reading;
Bill Amended; Third Reading Ordered****H. 528**

Rep. Rogers of Waterville spoke for the committee on Health Care.

House bill entitled

An act relating to the Rural Health Services Task Force

Having appeared on the Calendar one day for notice, was taken up, read the second time.

Pending the question, Shall the bill be read a third time? **Reps. Rogers of Waterville, Christensen of Weathersfield, Cina of Burlington, Cordes of Lincoln, Donahue of Northfield, Durfee of Shaftsbury, Houghton of Essex, Jickling of Randolph, Lippert of Hinesburg, Page of Newport City and Smith of New Haven** moved to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. RURAL HEALTH SERVICES TASK FORCE; REPORT

(a) Creation. There is created the Rural Health Services Task Force to evaluate the current state of rural health care in Vermont and identify ways to sustain the system and to ensure it provides access to affordable, high-quality health care services.

(b) Membership. The Rural Health Services Task Force shall be composed of the following members:

(1) the Secretary of Human Services or designee;

(2) the Chair of the Green Mountain Care Board or designee;

(3) the Chief Health Care Advocate from the Office of the Health Care Advocate or designee;

(4) two representatives of rural Vermont hospitals, selected by the Vermont Association of Hospitals and Health Systems, who shall represent

hospitals that are located in different regions of the State and that face different levels of financial stability;

(5) one representative of Vermont's federally qualified health centers, who shall be a Vermont-licensed health care professional, selected by Bi-State Primary Care Association;

(6) one Vermont-licensed physician from an independent practice located in a rural Vermont setting, selected jointly by the Vermont Medical Society and HealthFirst;

(7) one representative of Vermont's designated agencies, selected by Vermont Care Partners;

(8) one Vermont-licensed mental health professional from an independent practice located in a rural Vermont setting, selected by the Commissioner of Mental Health;

(9) one representative of Vermont's home health agencies, selected jointly by the VNAs of Vermont and Bayada Home Health Care; and

(10) one representative of long-term care facilities, selected by the Vermont Health Care Association.

(c) Powers and duties. The Rural Health Services Task Force shall consider issues relating to rural health care delivery in Vermont, including:

(1) the current system of rural health care delivery in Vermont, including the role of rural hospitals in the health care continuum;

(2) how to ensure the sustainability of the rural health care system, including identifying the major financial, administrative, and workforce barriers;

(3) ways to overcome any existing barriers to the sustainability of the rural health care system, including prospective ideas for the future of access to health care services in rural Vermont across the health care continuum; and

(4) the potential consequences of the failure of one or more rural Vermont hospitals.

(d) Assistance. The Rural Health Services Task Force shall have the administrative, technical, and legal assistance of the Agency of Human Services and the Green Mountain Care Board.

(e) Report. On or before December 31, 2019, the Rural Health Services Task Force shall submit a written report to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare

with its findings and recommendations, including any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Human Services or designee shall call the first meeting of the Rural Health Services Task Force to occur on or before July 1, 2019.

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

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

(4) The Task Force shall cease to exist following submission of its report or on December 31, 2019, whichever occurs first.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to and third reading ordered.

**Committee Bill; Second Reading;
Consideration Interrupted**

H. 532

Rep. Toll of Danville spoke for the committee on Appropriations.

House bill entitled

An act relating to limited adjustments to the fiscal year 2019 budget

Having appeared on the Calendar one day for notice, was taken up, read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Toll of Danville** moved to amend the bill as follows:

Sec. 6a to read as follows:

Sec. 6a. FISCAL YEAR 2019 ONE-TIME APPROPRIATIONS; LEAD

TESTING

The following appropriations are made from the General Fund in fiscal year 2019:

(1) To the Department of Health: \$2,400,000 to fund the testing for lead content in schools' and licensed child care centers' drinking water

consistent with the program established in S.40 of 2019. These funds are allocated as follows:

(A) \$125,000 to fund the limited service program position established in S.40 of 2019.

(B) \$150,000 to fund program start-up and data management costs for the program.

(C) \$1,265,000 to fund the initial testing and retesting costs.

(D) \$860,000 to fund the estimated 50 percent of tap remediation costs.

(2) To the Department of Environmental Conservation: \$125,000 to fund the limited service remediation position established in S.40 of 2019.

Recess

At two o'clock and twenty-five minutes in the afternoon, the Speaker declared a recess until three o'clock and fifteen minutes in the afternoon.

At three o'clock and thirty minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Third Reading Ordered

H. 532

Consideration resumed on House bill, entitled

An act relating to limited adjustments to the fiscal year 2019 budget

Thereupon, pending the question, shall the bill be amended as offered by **Rep. Toll of Danville?**, **Rep. Toll of Danville** asked and was granted leave of the House to withdraw the amendment and third reading was ordered.

Second Reading; Bill Amended; Third Reading Ordered

H. 460

Rep. Colburn of Burlington, for the committee on Judiciary, to which had been referred House bill entitled,

An act relating to sealing and expungement of criminal history records

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

(1) “Court” means the Criminal Division of the Superior Court.

(2) “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(3) “Predicate offense” means a criminal offense that can be used to enhance a sentence levied for a later conviction, and includes operating a vehicle under the influence of alcohol or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. “Predicate offense” shall not include misdemeanor possession of marijuana, ~~or~~ a disorderly conduct offense under section 1026 of this title, or possession of a controlled substance in violation of 18 V.S.A. § 4230(a), § 4231(a), § 4232(a), § 4233(a), § 4234(a), § 4234a(a), § 4234b(a), § 4235(b), or § 4235a(a).

(4) “Qualifying crime” means:

(A) a misdemeanor offense that is not:

(i) a listed crime as defined in subdivision 5301(7) of this title;

(ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;

(iii) an offense involving violation of a protection order in violation of section 1030 of this title;

(iv) prostitution as defined in section 2632 of this title, or prohibited conduct under section 2601a of this title; or

(v) a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief;

(C) a violation of section 2501 of this title related to grand larceny;

(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title; ~~or~~

(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;

(F) a violation of subdivision 1404(c)(4) of this title related to conspiracy to receive stolen property;

(G) a violation of section 2001 of this title related to false personation;

(H) a violation of section 2002 of this title related to false pretenses or tokens;

(I) a violation of section 2561 of this title related to receiving stolen property;

(J) a violation of section 2575 of this title related to retail theft;

(K) a violation of 18 V.S.A. § 4230(a) related to possession of marijuana;

(L) a violation of 18 V.S.A. § 4231(a) related to possession of cocaine;

(M) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;

(N) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;

(O) a violation of 18 V.S.A. § 4234(a) related to possession of depressant, stimulant, and narcotic drugs;

(P) a violation of 18 V.S.A. § 4234a(a) related to possession of methamphetamine;

(Q) a violation of 18 V.S.A. § 4234b(a) related to possession of ephedrine and pseudoephedrine;

(R) a violation of 18 V.S.A. § 4235(b) related to possession of hallucinogenic drugs;

(S) a violation of 18 V.S.A. § 4235a(a) related to possession of ecstasy; or

(T) any offense for which a person has been granted an unconditional pardon from the Governor.

Sec. 2. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

~~(a) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. The court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. Order and notice. Upon finding that the requirements for expungement have been met, the court shall issue an~~

order that shall include provisions that its effect is to annul the record of the arrest, conviction, and sentence, and that such person shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

(b) Effect.

(1) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been expunged.

(3) The response to an inquiry from any person regarding an expunged record shall be that "NO RECORD EXISTS."

(4) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense.

~~(c) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense~~ Process.

(1) The court shall remove the expunged offense from any publicly and privately accessible database that it maintains.

(2) Until all charges on a docket are expunged, the case file shall remain publicly accessible.

(3) When all charges on a docket have been expunged, the case file shall be destroyed pursuant to policies established by the Court Administrator.

(d) Special index.

(1) The court shall keep a special index of cases that have been expunged together with the expungement order and the certificate issued pursuant to this chapter. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Inspection of the expungement order ~~and the certificate~~ may be permitted only upon petition by the person who is the subject of the case. The ~~Administrative Judge~~ Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(4) ~~All other court documents in a case that are subject to an expungement order shall be destroyed [Repealed].~~

(5) The Court Administrator shall establish policies for implementing this subsection.

~~(e) Upon receiving an inquiry from any person regarding an expunged record, an entity shall respond that "NO RECORD EXISTS."~~

Sec. 4. 13 V.S.A. § 7607 is amended to read:

§ 7607. EFFECT OF SEALING

~~(a) Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence Notice. The court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.~~

(b) Effect.

(1) Except as provided in subdivision (c) of this section, upon entry of a sealing order, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been sealed.

(3) The response to an inquiry from any person regarding a sealed record shall be that “NO RECORD EXISTS.”

(c) Exceptions. Notwithstanding a sealing order:

(1) An entity that possesses a sealed record may continue to use it for any litigation or claim arising out of the same incident or occurrence or involving the same defendant.

(2) An entity may use the criminal history record sealed in accordance with section 7603 of this title, regarding a person who was cited or arrested, for future criminal investigations or prosecutions without limitation.

~~(d) Upon receiving a sealing order, an entity shall:~~ Process.

~~(1) seal the investigation or prosecution record; The court shall bar viewing of the sealed offense in any publicly and privately accessible database that it maintains.~~

~~(2) enter a copy of the sealing order into the record; Until all charges on a docket have been sealed, the case file shall remain publicly accessible.~~

~~(3) flag the record as “SEALED” to prevent inadvertent disclosure of sealed information; and When all charges on a docket have been sealed, the case file shall become exempt from public access.~~

~~(4) upon receiving an inquiry from any person regarding a sealed record, respond that “NO RECORD EXISTS.”~~

Sec. 5. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(e) Prior to the filing of any postjudgment motion in the Civil, Criminal, or Environmental Division of the Superior Court, including motions to reopen civil suspensions ~~and motions for sealing or expungement in the Criminal Division pursuant to 13 V.S.A. § 7602,~~ or motions to reopen existing cases in the Probate Division of the Superior Court, there shall be paid to the clerk of the court for the benefit of the State a fee of \$90.00 except for small claims actions and estates. A filing fee of \$90.00 shall be paid to the clerk of the court for a civil petition for minor settlements. There shall be no filing fee for motions to seal or expunge a criminal history record pursuant to 13 V.S.A. § 7602.

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

Rep. Canfield of Fair Haven, for the committee on Ways and Means, recommended the bill ought to pass when amended by the committee on Judiciary.

The bill, having appeared on the Calendar one day for notice, was taken up, read second time, the report of the committees on Judiciary and Ways and Means agreed to and third reading was ordered.

Adjournment

At four o'clock and twelve minutes in the afternoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.