

Journal of the House

Friday, February 5, 2021

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Cina of Burlington.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time, and referred to committee as follows:

H. 194

By Reps. Sims of Craftsbury, Campbell of St. Johnsbury, Donnally of Hyde Park, Harrison of Chittenden, and Marcotte of Coventry,

House bill, entitled

An act relating to elevating and accelerating broadband;

To the Committee on Energy and Technology.

H. 195

By Rep. Grad of Moretown,

House bill, entitled

An act relating to use of facial recognition technology by law enforcement in cases involving sexual exploitation of children, sexual assault, homicide, or kidnapping;

To the Committee on Judiciary.

H. 196

By Reps. Christie of Hartford, Anthony of Barre City, Austin of Colchester, Beck of St. Johnsbury, Birong of Vergennes, Bluemle of Burlington, Brady of Williston, Brumsted of Shelburne, Burrows of West Windsor, Chase of Colchester, Coffey of Guilford, Cordes of Lincoln, Dolan of Essex, Donahue of Northfield, Donnally of Hyde Park, Gannon of Wilmington, Hooper of Burlington, Houghton of Essex, James of Manchester, Killacky of South Burlington, Lippert of Hinesburg, Masland of Thetford, Mulvaney-Stanak of Burlington, Pajala of Londonderry, Patt of Worcester, Rachelson of Burlington, Satcowitz of Randolph, Sabilia of Dover, Sims of Craftsbury,

Stevens of Waterbury, Surprenant of Barnard, Till of Jericho, Townsend of South Burlington, Vyhovsky of Essex, Walz of Barre City, White of Bethel, and Wood of Waterbury,

House bill, entitled

An act relating to supporting the work of the Executive Director of Racial Equity;

To the Committee on Government Operations.

H. 197

By Rep. Rachelson of Burlington,

House bill, entitled

An act relating to an independent monitoring board for body-worn camera footage;

To the Committee on Government Operations.

H. 198

By Rep. Rachelson of Burlington,

House bill, entitled

An act relating to limiting the circumstances under which an asset is subject to judicial forfeiture;

To the Committee on Judiciary.

H. 199

By Rep. Grad of Moretown,

House bill, entitled

An act relating to validating legal instruments used in connection with the conveyance of real estate;

To the Committee on Judiciary.

H. 200

By Reps. Kornheiser of Brattleboro, Colburn of Burlington, and Pajala of Londonderry,

House bill, entitled

An act relating to regulating short-term rentals;

To the Committee on General, Housing, and Military Affairs.

H. 201

By Rep. Brennan of Colchester,
House bill, entitled
An act relating to switchblade knives;
To the Committee on Judiciary.

H. 202

By Rep. Rachelson of Burlington,
House bill, entitled
An act relating to expungement and sealing of criminal history records
without a petition;
To the Committee on Judiciary.

H. 203

By Rep. Rachelson of Burlington,
House bill, entitled
An act relating to criminal threatening a State employee or elected official;
To the Committee on Judiciary.

H. 204

By Rep. Noyes of Wolcott,
House bill, entitled
An act relating to creating a State funding match for AmeriCorps members;
To the Committee on Commerce and Economic Development.

Joint Resolution Referred to Committee**J.R.H. 3**

Joint resolution constituting an application for a Convention of the States
under Article V of the Constitution of the United States

Offered by: Representative Helm of Fair Haven

Whereas, the founders of our Constitution empowered State Legislators to
be guardians of liberty against future abuses of power by the federal
government, and

Whereas, the federal government has created a crushing national debt
through improper and imprudent spending, and

Whereas, the federal government has invaded the legitimate roles of the states through the manipulative process of federal mandates, most of which are unfunded to a great extent, and

Whereas, the federal government has ceased to live under a proper interpretation of the Constitution of the United States, and

Whereas, it is the solemn duty of the States to protect the liberty of our people—particularly for the generations to come—by proposing Amendments to the Constitution of the United States through a Convention of the States under Article V for the purpose of restraining these and related abuses of power, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly of the State of Vermont hereby applies to Congress under the provisions of Article V of the Constitution of the United States, and be it further

Resolved: That the General Assembly requests that the convention of the States be limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress, and be it further

Resolved: That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two-thirds of the several states have made applications on the same subject, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, to the members of the Vermont Congressional Delegation, and to the presiding officers of each of the legislative houses in the several States, requesting their cooperation.

Which was read and, in the Speaker's discretion pursuant to Rule 52, treated as bill, and referred to the Committee on Government Operations.

Joint Resolution Placed on Calendar

J.R.S. 13

House resolution, entitled

By Senator Balint,

J.R.S. 13. Joint resolution providing for the election of a Sergeant at Arms, an Adjutant and Inspector General, and three Trustees of the University of Vermont and State Agricultural College.

Whereas, Vermont has been declared by the Governor to be in a State of Emergency as a result of a pandemic known as “COVID-19”; and

Whereas, it is critical to take steps to control outbreaks of COVID-19 to minimize the risk to the public, maintain the health and safety of Vermonters, and limit the spread of infection in our community; and

Whereas, technology exists that would enable the General Assembly to conduct a Joint Assembly during this time of a declared emergency in a manner: consistent with public access to, and transparency of, its proceedings, as demanded by the Vermont Constitution; and consistent with and in compliance with statutory and legislative rule requirements regarding the election of a Sergeant at Arms, an Adjutant and Inspector General, and three Trustees of the University of Vermont and State Agricultural College, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, February 18, 2021, at ten o’clock and thirty minutes in the forenoon to vote on the election of a Sergeant at Arms, an Adjutant and Inspector General, and three Trustees of the University of Vermont and State Agricultural College, *and be it further*

Resolved: That the Joint Assembly shall be concurrently conducted electronically at which members of the General Assembly may participate and debate from a remote location; that voting by ballot shall be conducted, as practicable, consistent with Vermont’s “Early or Absentee Voters” statute at 17 V.S.A. §2531, et seq.; that after nominations and debates, if necessary, the Joint Assembly shall recess until Thursday, February 25, 2021 at 2:00 pm (or as otherwise ordered by the Joint Assembly) so that ballots may be submitted; and that upon reconvening, the results of the vote shall be announced or the Joint Assembly shall proceed until the above is completed.

Which was read and, at the Speaker’s discretion under Rule 52, placed on the Calendar for Action on the next legislative day.

Joint Resolution Placed on Calendar

J.R.S. 14

House resolution, entitled

By Senator Balint,

J.R.S. 14. Joint resolution establishing a procedure for the conduct of the election of UVM trustees by plurality vote by the General Assembly in 2021.

Whereas, in 1997 the election of three trustees of the University of Vermont and State Agricultural College was decided by plurality vote, which required one ballot only, and

Whereas, in 1999 the election of three trustees of the University of Vermont and State Agricultural College was decided by majority vote, which required a total of eight ballots, and

Whereas, in 2001 and subsequent bienniums the elections of three trustees of the University of Vermont and State Agricultural College were decided by plurality vote, each of which required one ballot only, and

Whereas, if an election for multiple vacancies is 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 three trustees of the University of Vermont and State Agricultural College at a Joint Assembly to be held on February 18, 2021, 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 three.

(2) The three candidates receiving the most votes shall be declared elected to fill the three vacancies.

(3) In the event that the first balloting for the Trustee vacancies results in a tie vote for one or more of the three vacant positions, then as necessary voting shall continue on successive ballots until the vacancies have been filled, again by election declared of those candidates receiving the most votes.

Which was read and, at the Speaker's discretion under Rule 52, placed on the Calendar for Action on the next legislative day.

Third Reading; Bill Passed

H. 18

House bill, entitled

An act relating to sexual exploitation of children

Was taken up, read the third time, and passed.

Second Reading; Bill Amended; Third Reading Ordered**H. 20**

Rep. Donnally of Hyde Park, for the Committee on Judiciary, to which had been referred House bill, entitled

An act relating to pretrial risk assessments and pretrial services

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. § 7554c is amended to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

~~(a)(1) The objective of a pretrial risk assessment is to provide information to the court for the purpose of determining whether a person presents a risk of nonappearance or a risk of re-offense so the court can make an appropriate order concerning bail and conditions of pretrial release. The assessment shall not assess victim safety or risk of lethality in domestic assaults.~~

~~(2) The objective of a pretrial needs screening is to obtain a preliminary indication of whether a person has a substantial substance abuse or mental health issue that would warrant a subsequent court order for a more detailed clinical assessment.~~

~~(3)(2) Participation in a risk assessment or needs screening pursuant to this section does not create any entitlement for the assessed or screened person.~~

~~(b)(1) Except as provided in subdivision (2) of this subsection, a judge may request that a pretrial services coordinator perform a risk assessment that assesses risk of flight for a person who is arrested, lodged, and unable to post bail within 24 hours of lodging shall be offered a risk assessment and, if deemed appropriate by the pretrial services coordinator, a needs screening prior to arraignment.~~

~~(2) A person charged with an offense for which registration as a sex offender is required pursuant to chapter 167, subchapter 3 of this title or an offense punishable by a term of life imprisonment shall not be eligible under this section.~~

~~(3) Participation in risk assessment or needs screening shall be voluntary and a person's refusal to participate shall not result in any criminal legal liability to the person.~~

~~(4) In the event an assessment or a screening cannot be obtained prior to arraignment, the risk assessment and needs screening shall be conducted as soon as practicable.~~

(5) A person who qualifies pursuant to subdivision (1) of this subsection and who has an additional pending charge or a violation of probation shall not be excluded from being offered a ~~risk assessment~~ or needs screening unless the other charge is a listed crime.

(6) Any person charged with a criminal offense ~~or~~, a person who is the subject of a youthful offender petition pursuant to 33 V.S.A. § 5280, or a person 18 years of age or older who is the subject of a delinquency petition pursuant to 33 V.S.A. § 5201, except those persons identified in subdivision (2) of this subsection, may choose to engage with a pretrial services coordinator.

(c) The results of the risk assessment and needs screening shall be provided to the person and his or her attorney, the prosecutor, and the court. Pretrial services coordinators may share information only within the limitations of subsection (e) of this section.

(d)(1) At arraignment, the court may order a person who is eligible to engage with a pretrial services coordinator under subdivision (b)(6) of this section to do the following:

(A) meet with a pretrial services coordinator on a schedule set by the court;

(B) participate in a needs screening with a pretrial services coordinator; and

(C) participate in a clinical assessment by a substance abuse or mental health treatment provider and follow the recommendations of the provider.

(2) The court may order the person to engage in pretrial services. Pretrial services may include the pretrial services coordinator:

(A) supporting the person in meeting conditions of release imposed by the court, including the condition to appear for judicial proceedings; and

(B) connecting the person with community-based treatment programs, rehabilitative services, recovery supports, and restorative justice programs.

(3) If possible, the court shall set the date and time for the clinical assessment at arraignment. In the alternative, the pretrial services coordinator shall coordinate the date, time, and location of the clinical assessment and advise the court, the person and his or her attorney, and the prosecutor.

(4) An order authorized in subdivision (1) or (2) of this subsection shall be in addition to any conditions of release permitted by law and shall not limit

the court in any way. Failure to comply with a court order authorized by subdivision (1) or (2) of this subsection shall not constitute a violation of section 7559 of this title.

(5) This section shall not be construed to limit a court's authority to impose conditions pursuant to section 7554 of this title.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

House Resolution Adopted

H.R. 7

House resolution, entitled

House resolution disapproving Executive Order 01-21

Was taken up.

Pending the question, Shall the House adopt the Resolution? **Rep. McCoy of Poultney** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House adopt the Resolution? was decided in the affirmative. Yeas, 108. Nays, 40.

Those who voted in the affirmative are:

Ancel of Calais	Helm of Fair Haven	Ode of Burlington
Anthony of Barre City	Higley of Lowell *	Pajala of Londonderry
Austin of Colchester	Hooper of Montpelier	Partridge of Windham
Bartholomew of Hartland	Hooper of Randolph	Patt of Worcester
Birong of Vergennes	Hooper of Burlington *	Pearl of Danville
Black of Essex	Houghton of Essex	Pugh of South Burlington
Bluemle of Burlington	Howard of Rutland City	Rachelson of Burlington
Bock of Chester	James of Manchester	Redmond of Essex
Bongartz of Manchester	Jerome of Brandon	Rogers of Waterville
Bos-Lun of Westminster	Jessup of Middlesex	Satcowitz of Randolph
Brady of Williston	Killacky of South Burlington	Scheu of Middlebury
Briglin of Thetford	Kimbell of Woodstock	Seymour of Sutton
Brown of Richmond	Kitzmiller of Montpelier	Sheldon of Middlebury
Brownell of Pownal	Kornheiser of Brattleboro	Sibilia of Dover
Brumsted of Shelburne	LaLonde of South	Sims of Craftsbury
Burke of Brattleboro	Burlington	Small of Winooski
Burrows of West Windsor	Lanpher of Vergennes	Squirrell of Underhill
Campbell of St. Johnsbury	Lefebvre of Newark	Stebbins of Burlington

Chase of Colchester	Lefebvre of Orange	Stevens of Waterbury
Christie of Hartford	Lippert of Hinesburg	Sullivan of Dorset
Cina of Burlington	Long of Newfane	Surprenant of Barnard
Coffey of Guilford	Marcotte of Coventry	Taylor of Colchester
Colburn of Burlington	Masland of Thetford	Terenzini of Rutland Town
Colston of Winooski	McCarthy of St. Albans City*	Till of Jericho
Conlon of Cornwall	McCullough of Williston	Toleno of Brattleboro
Copeland Hanzas of Bradford	Morris of Springfield	Townsend of South Burlington
Corcoran of Bennington	Morrissey of Bennington	Troiano of Stannard
Cordes of Lincoln	Mrowicki of Putney *	Vyhovsky of Essex
Dolan of Essex	Mulvaney-Stanak of Burlington	Walz of Barre City
Dolan of Waitsfield	Murphy of Fairfax	Webb of Shelburne
Donnally of Hyde Park	Nicoll of Ludlow	White of Bethel
Durfee of Shaftsbury	Nigro of Bennington	White of Hartford
Elder of Starksboro	Norris of Shoreham	Whitman of Bennington
Emmons of Springfield	Notte of Rutland City	Wood of Waterbury
Gannon of Wilmington *	Noyes of Wolcott	Yacovone of Morrystown
Goldman of Rockingham	O'Brien of Tunbridge	Yantachka of Charlotte
Grad of Moretown		

Those who voted in the negative are:

Achey of Middletown Springs *	Graham of Williamstown	Page of Newport City
Arrison of Weathersfield	Gregoire of Fairfield *	Palasik of Milton
Batchelor of Derby	Hango of Berkshire	Parsons of Newbury *
Beck of St. Johnsbury	Harrison of Chittenden	Peterson of Clarendon
Brennan of Colchester	LaClair of Barre Town	Rosenquist of Georgia
Burditt of West Rutland	Leffler of Enosburgh	Savage of Swanton
Canfield of Fair Haven	Martel of Waterford	Scheuermann of Stowe
Cupoli of Rutland City	Martin of Franklin	Shaw of Pittsford
Dickinson of St. Albans Town	Mattos of Milton	Smith of Derby
Donahue of Northfield *	McCoy of Poultney *	Smith of New Haven
Fagan of Rutland City	McFaun of Barre Town	Strong of Albany
Feltus of Lyndon	Morgan, L. of Milton	Toof of St. Albans Town
Goslant of Northfield *	Morgan, M. of Milton	Williams of Granby *
	Norris of Sheldon	

Those members absent with leave of the House and not voting are:

McCormack of Burlington

Rep. Achey of Middletown Springs explained her vote as follows:

“Madam Speaker:

This resolution was rushed through committee and onto this floor. I understand that there were witnesses who wished to give testimony but were not given the opportunity. I cannot support a resolution produced without due process.”

Rep. Donahue of Northfield explained her vote as follows:

“Madam Speaker:

I cannot – I will not – vote in support of a non-emergency decision on which a formal vote was taken by a committee without public notice of the pending vote.”

Rep. Gannon of Wilmington explained his vote as follows:

“Madam Speaker:

I vote yes because the E.O. would potentially undermine the work that the General Assembly did in Act 166 last session to create an independent body to adjudicate the unprofessional conduct of law enforcement officers. I look forward to working on any legislation that the Governor presents us.”

Rep. Goslant of Northfield explained his vote as follows:

“Madam Speaker:

I support the merits of this change. Benefits of an agency structure include organizing our State's public safety assets for operational efficiencies and to provide better service to all Vermonters. It will help us have a mindful, equitable, fair, and re-producible system of criminal justice and public health service delivery to ensure that we are doing all we can in prevention and education, outreach, and early intervention, ensuring that accountability for those who require more traditional Court sanctions and incarceration are available, and more.

We do not have to take a vote on this until April. I feel this is a rushed decision that did not get the time and attention it deserves in order to contemplate the actual policy before shooting it down.

68.5% of Vermont voters supported Governor Scott in the last election. Vermonters clearly have faith in his judgment and leadership of this State. I believe he should be supported now. Thank you.”

Rep. Gregoire of Fairfield explained his vote as follows:

“Madam Speaker:

I vote no today on principle. While I agree that a change this significant could benefit from a more thorough discussion, I believe it is important to be consistent in our positions. The resolution process appears to have been rushed and we have been told that executive orders are not the best way to govern. At the national level we have seen a modern record for executive actions with great support. So is the issue that executive orders are not the right way or is it

actually that executive orders from a republican governor are not the right way. Consistency is important. We are either in this together or we are not.”

Rep. Higley of Lowell explained his vote as follows:

“Madam Speaker:

I will certainly support every effort to consider this proposal, in bill form, going forward in the Government Operations Committee.”

Rep. Hooper of Burlington explained his vote as follows:

“Madam Speaker:

I voted yes because this order did not seek the input of those most impacted by the resolution. The employees themselves.

The order was far reaching and unlike the former merger of Liquor and Lottery, was a hodge podge of picking one from this agency and another from another, employees, both sworn officers and line staff, saw that process as a breakdown in normally established patterns of communication, supervision, and work flow.

Many employees said they COULD support a change like this, but the ambiguity of this proposal and the seemingly limitless reach created a clear sense of fear on their part.

I consulted my constituents and acted on the information they provided along with the testimony in committee. I remain open to giving this proposal serious review in the traditional arena of a proposed piece of legislation.”

Rep. McCarthy of St. Albans City explained his vote as follows:

“Madam Speaker:

Changes to the delivery of services as essential as law enforcement and public safety must allow us to do our work as legislators, understanding all of the fiscal and policy effects and modifying the proposal as needed. An executive order leaves no room for us to do our work and improve upon its proposals. It is clear that this Executive Order leaves too many questions unresolved. The due process we need for such a proposal requires consideration of legislation. Our disapproval today does not close the door to future consideration of the merits of the Executive Order. I vote yes.”

Rep. McCoy of Poultney explained her vote as follows:

“Madam Speaker:

Today, this body chose to ignore our constituents by not allowing them to testify on an executive order. Regardless of your position on Executive Order 01-21, we failed to live up to our duty to provide a free, open, and accessible

government by not allowing these groups and organizations to testify. We must do a better job.

I appreciate, however, the commitment on the part of the Chair and Vice Chair of House Government Operations to work with the Administration on this plan and look forward to a draft committee bill. Thank you.”

Rep. Mrowicki of Putney explained his vote as follows:

“Madam Speaker:

I vote yes, to bring this process to the full deliberations of the Legislature , not to have to approve a take-it-or-leave-it proposition with no option to offer amendment.

Trying to govern by executive orders leaves out the Legislature and the full process of as many committees needed, especially in an undertaking as large and complex as this. I certainly hope this does not represent a trend of trying to govern by executive order, that leaves the Legislature out of the process.

As for noting vote totals, the totals in both houses of the Legislature, that put twice as many members of one party to another in the Legislature are evidence enough of what Vermonters wanted - a balanced approach to Government.”

Rep. Parsons of Newbury explained his vote as follows:

“Madam Speaker:

I believe it is the obligation of this body to do our due diligence for the people we represent. With two months left to make a decision on this Executive Order and witnesses expressing a desire to testify, but going unheard in the process. I do not feel like that obligation has been met by this Committee, and that is why I am voting no today.”

Rep. Williams of Granby explained her vote as follows:

“Madam Speaker:

I feel this resolution was not given the opportunity for due processes. Our constituents need an opportunity to be heard.”

Adjournment

At eleven o'clock and twenty-eight minutes in the forenoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until Tuesday, February 9, 2021, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 12.