

# Journal of the Senate

WEDNESDAY, FEBRUARY 17, 2021

The Senate was called to order by the President.

## **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

## **Committee Relieved of Further Consideration; Bill Committed**

### **S. 71.**

On motion of Senator Benning, the Committee on Institutions was relieved of further consideration of Senate bill entitled:

An act relating to applying Vermont prevailing wages to school construction projects,

and the bill was committed to the Committee on Economic Development, Housing and General Affairs.

## **Committee Relieved of Further Consideration; Bill Committed**

### **S. 73.**

On motion of Senator Benning, the Committee on Institutions was relieved of further consideration of Senate bill entitled:

An act relating to allowing probation and parole officers to carry firearms while on duty,

and the bill was committed to the Committee on Government Operations.

## **Appointment of Senate Members to Green Mountain Care Board Nominating Committee**

Pursuant to the provisions of 18 V.S.A. § 9390, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Green Mountain Care Board Nominating Committee, for a term of two years:

Senator Pearson  
Senator Lyons

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**Appointment of Senate Members to Government Accountability  
Committee**

Pursuant to the provisions of Sec. 5(b) of No. 206 of the Acts of 2008, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Joint Legislative Government Accountability for the current biennium:

Senator White  
Senator Collamore  
Senator Perchlik  
Senator Ram

**Appointment of Senate Member to Governor's Snowmobile Council**

Pursuant to the provisions of 23 V.S.A. § 3216, the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Governor's Snowmobile Council for a term of two years:

Senator Kitchel

**Appointment of Task Force to Revitalize the Vermont Dairy Industry**

Pursuant to the provisions of Act No. 129 Sec. 31(c)(1) (Acts of 2020)(Adj. Sess.), the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Task Force to Revitalize the Vermont Dairy Industry during this biennium:

Senator Starr  
Senator Brock

**Bills Introduced**

Senate bills of the following titles were severally introduced, read the first time and referred:

**S. 82.**

By Senators Pollina, Benning, Bray, Brock, Champion, Chittenden, Collamore, Cummings, Hardy, Hooker, Kitchel, Pearson, Perchlik, Sirotkin and Terenzini,

An act relating to providing the State Auditor with access to accountable care organization records.

To the Committee on Health and Welfare.

**S. 83.**

By Senator Ingalls,

An act relating to the Dairy Industry Stabilization Program.

To the Committee on Agriculture.

**S. 84.**

By Senator Ram,

An act relating to the use of exclusionary discipline for students who are under eight years of age and to school district truancy referrals to the State's Attorneys.

To the Committee on Education.

**S. 85.**

By Senators Hooker, McCormack, Perchlik and Pollina,

An act relating to designating certain sheriff's deputies as classified State employees.

To the Committee on Government Operations.

**Bill Amended; Third Reading Ordered****S. 18.**

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

An act relating to limiting earned good time sentence reductions for offenders convicted of certain crimes.

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

Sec. 1. 13 V.S.A. § 5321 is amended to read:

§ 5321. APPEARANCE BY VICTIM

\* \* \*

(d) At or before the sentencing hearing, the prosecutor's office shall instruct the victim of a listed crime, in all cases where the court imposes a sentence that includes a period of incarceration, that a sentence of incarceration is to the custody of the Commissioner of Corrections and that the Commissioner of Corrections has the authority to affect the actual time the defendant shall serve in incarceration through good time credit, furlough, work-release, and other early release programs. In addition, the prosecutor's

office shall explain the significance of a minimum and maximum sentence to the victim ~~and shall also~~, explain the function of parole and how it may affect the actual amount of time the defendant may be incarcerated, and inform the victim of the maximum amount of earned time that the defendant could accrue and that earned time only affects when a defendant is eligible for parole consideration but does not necessarily result in the defendant's release.

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Sec. 2. 28 V.S.A. § 818 is amended to read:

§ 818. EARNED ~~GOOD~~ TIME; REDUCTION OF TERM

(a) On or before September 1, 2020, the Department of Corrections shall file a proposed rule pursuant to 3 V.S.A. chapter 25 implementing an earned ~~good~~ time program to become effective on January 1, 2021. The Commissioner shall adopt rules to carry out the provisions of this section as an emergency rule and concurrently propose them as a permanent rule. The emergency rule shall be deemed to meet the standard for the adoption of emergency rules pursuant to 3 V.S.A. § 844(a).

(b) The earned ~~good~~ time program implemented pursuant to this section shall comply with the following standards:

(1) The program shall be available for all sentenced offenders, including furloughed offenders, provided that the program shall not be available to offenders on probation or parole, to offenders eligible for a reduction of term pursuant to section 811 of this title, to offenders sentenced to serve an interrupted sentence, or to offenders sentenced to life without parole. Offenders currently serving a sentence shall be eligible to begin earning a reduction in term when the earned ~~good~~ time program becomes effective. Notwithstanding this subdivision (1), when an offender has been convicted of a disqualifying offense, the offender's ability to participate and earn time in the program shall be determined pursuant to subdivision (5) of this subsection.

(2) Offenders shall earn a reduction of seven days in the minimum and maximum sentence for each month during which the offender:

(A) is not adjudicated of a major disciplinary rule violation; and

(B) is not reincarcerated from the community for a violation of release conditions, provided that an offender who loses a residence for a reason other than fault on the part of the offender shall not be deemed reincarcerated under this subdivision.

(3) An offender who receives post-adjudication treatment in a residential setting for a substance use disorder shall earn a reduction of one day in the minimum and maximum sentence for each day that the offender

receives the inpatient treatment. While a person is in residential substance abuse treatment, he or she shall not be eligible for ~~good~~ earned time except as provided in this subsection.

(4) The Department shall:

(A) ensure that all victims of record are notified of the earned ~~good~~ time program at its outset and made aware of the option to receive notifications from the Department pursuant to this subdivision;

(B) provide timely notice not less frequently than every 90 days to the offender any time the offender receives a reduction in his or her term of supervision pursuant to this section;

(C) maintain a system that documents and records all such reductions in each offender's permanent record; and

(D) record any reduction in an offender's term of supervision pursuant to this section on a monthly basis and ensure that victims who want information regarding changes in scheduled release dates have access to such information.

(5) Notwithstanding 1 V.S.A. § 214, an offender who is serving a sentence for a disqualifying offense on the effective date of this subdivision (5) shall not earn any earned time sentence reductions under this section after the effective date of this act. This subdivision (5) shall not be construed to limit or affect earned time that an offender has earned on or before the effective date of this act.

(c) As used in this section:

(1) "Disqualifying offense" means:

(A) murder in violation of 13 V.S.A. § 2301;

(B) voluntary manslaughter in violation of 13 V.S.A. § 2304;

(C) kidnapping in violation of 13 V.S.A. § 2405;

(D) lewd and lascivious conduct with a child in violation of 13 V.S.A. § 2602, provided that the offense shall not be considered a disqualifying offense if the offender is under 18 years of age, the child is at least 12 years of age, and the conduct is consensual;

(E) sexual assault in violation of 13 V.S.A. § 3252(a) or (b);

(F) aggravated sexual assault in violation of 13 V.S.A. § 3253; or

(G) aggravated sexual assault of a child in violation of 13 V.S.A. § 3253a.

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(2) “Interrupted sentence” means a sentence that is not served continuously, including a sentence to be served in intervals or a sentence to the work crew.

Sec. 3. 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.

**Adjournment**

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Thursday, February 18, 2021.