

Journal of the Senate

FRIDAY, APRIL 2, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 44

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 2. Joint resolution sincerely apologizing and expressing sorrow and regret to all individual Vermonters and their families and descendants who were harmed as a result of State-sanctioned eugenics policies and practices.

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

The House has considered concurrent resolutions originating in the Senate of the following titles:

S.C.R. 2. Senate concurrent resolution honoring former Franklin Selectboard Chair Peter Magnant for his exemplary civic leadership.

S.C.R. 3. Senate concurrent resolution honoring former Franklin Selectboard member Yvon Dandurand for his outstanding public service.

And has adopted the same in concurrence.

Joint Resolution Referred

J.R.H. 2.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution sincerely apologizing and expressing sorrow and regret to all individual Vermonters and their families and descendants who were harmed as a result of State-sanctioned eugenics policies and practices.

Whereas, State institutions established in the 19th century, including the Vermont State Hospital for the Insane and the Vermont Reform School, became settings for the implementation of eugenics policies, and

Whereas, in 1912, the intent of the General Assembly to develop policies that in later years would be identified as the practice of eugenics was manifested with the passage of the subsequently vetoed S.79 of 1912, “An act to authorize and provide for the sterilization of imbeciles, feeble-minded, and insane persons, rapists, confirmed criminals and other defectives” and through the enactment of Acts and Resolves No. 81 of 1912, “An act to provide for the care, training and education of feeble-minded children,” the law authorizing the Brandon Training School, which opened in 1915, and

Whereas, in 1925, University of Vermont zoology professor Henry F. Perkins established the Eugenics Survey of Vermont, with the participation of leaders within Vermont State government, to collect evidence of Vermonters alleged delinquency, dependency, and deficiency, and

Whereas, State-sanctioned eugenics policies targeted Vermonters of Native American Indian heritage, including French-Indian and Abenaki families, and persons of mixed ethnicity and of French-Canadian heritage, as well as the poor and persons with disabilities, among others, and

Whereas, in 1927, S.59 “An act related to Voluntary Eugenic Sterilization” passed the Senate but was defeated in the House, and

Whereas, the General Assembly adopted 1931 Acts and Resolves No. 174 (Act 174) “An Act for Human Betterment by Voluntary Sterilization,” for the purpose of eliminating from the future Vermont genetic pool persons deemed mentally unfit to procreate, and

Whereas, Act 174 resulted in the sterilization of Vermonters, and whether these individuals provided informed consent can be questioned, and

Whereas, this State-sanctioned eugenics policy was not an isolated example of oppression, but reflected the historic marginalization, discriminatory treatment, and displacement of these targeted groups in Vermont, and

Whereas, eugenics advocates promoted sterilization for the protection of Vermont’s “old stock” and to preserve the physical and social environment of Vermont for their children, and

Whereas, the Eugenics Survey received assistance from State and municipal officials, individuals, and private organizations, and the resulting sterilization, institutionalization, and separation policies intruded on the lives of its victims and had devastating and irreversible impacts that still persist in the lives of the targeted groups and especially the descendants of those who were directly

impacted, and

Whereas, in conducting the Eugenics Survey, the surveyors were granted access to case files from State agencies and institutions, and the files were made available to persons of authority, including police departments, social workers, educators, and town officials, and

Whereas, as a result of the opening of these files, children and adults were removed from families, individuals were institutionalized or incarcerated, family connections were severed, and the sense of kinship, continuity and community was lost, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly sincerely apologizes and expresses its sorrow and regret to all individual Vermonters and their families and descendants who were harmed as a result of State-sanctioned eugenics policies and practices, and be it further

Resolved: That the General Assembly recognizes that further legislative action should be taken to address the continuing impact of State-sanctioned eugenics policies and related practices of disenfranchisement, ethnocide, and genocide.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Government Operations.

Bill Ordered to Lie

S. 100.

Senate bill entitled:

An act relating to universal school breakfast and lunch for all public school students and to creating incentives for schools to purchase locally produced foods.

Was taken up.

Thereupon, pending second reading of the bill, on motion of Senator Starr, the bill was ordered to lie.

Proposal of Amendment; Third Reading Ordered

H. 20.

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

An act relating to pretrial risk assessments and pretrial services.

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. § 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. PILOT PROJECT; DEPARTMENT OF CORRECTIONS
REPORT TO COURT; PROBATION CONDITIONS

(a) The Department of Corrections, in consultation with the Court Administrator, the Department of State's Attorneys and Sheriffs, the Office of the Attorney General, and the Office of the Defender General, shall establish a pilot project to provide the court with a report prior to the sentencing of any defendant to a term of probation for a felony pursuant to 28 V.S.A. § 205. The report shall be designed to assist the court in setting probation conditions and shall include the defendant's risk and needs assessment results, mental health and substance use disorder screening results, and criminal history.

(b) The Department, the Court Administrator, the Department of State's Attorneys and Sheriffs, the Office of the Attorney General, and the Office of the Defender General shall jointly select one or two units in the Criminal Division for participation in the pilot project established by this section. On or before December 1, 2022, the Department shall report the results of the pilot project to the Joint Legislative Justice Oversight Committee. The report shall recommend whether the pilot project should be made permanent throughout the State.

Sec. 3. 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.

Senate 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 on the part of the Senate:

By Senators Parent and Brock,

By Reps. Hango and Martin,

S.C.R. 2.

Senate concurrent resolution honoring former Franklin Selectboard Chair Peter Magnant for his exemplary civic leadership.

By Senators Parent and Brock,

By Reps. Hango and Martin,

S.C.R. 3.

Senate concurrent resolution honoring former Franklin Selectboard member Yvon Dandurand for his outstanding public service.

Adjournment

On motion of Senator Balint, the Senate adjourned, to reconvene on Tuesday, April 6, 2021, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 21.