

Journal of the Senate

WEDNESDAY, APRIL 14, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bills Referred to Committee on Finance

House bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee Finance:

H. 135. An act relating to the State Ethics Commission.

H. 337. An act relating to the printing and distribution of State publications.

Bill Referred

House bill of the following title was read the first time and referred:

H. 225.

An act relating to possession of a therapeutic dosage of buprenorphine.

To the Committee on Rules.

Message from the Governor

Appointment Referred

A message was received from the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to a committee as indicated:

The nomination of

Snelling, Diane of Hinesburg - Chair of the Natural Resources Board - from April 9, 2021 to February 28, 2023.

To the Committee on Natural Resources and Energy.

House Proposal of Amendment Concurred In**S. 18.**

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate 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. § 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~~ earned 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.

* * *

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 was serving a sentence for a disqualifying offense on January 1, 2021 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.

(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.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Bill Amended; Bill Passed

S. 135.

Senate bill entitled:

An act relating to separating the individual and small group health insurance markets for plan year 2022.

Was taken up.

Thereupon, pending third reading of the bill, Senator Cummings moved to amend the bill in Sec. 1, subsection (c), subdivision (3), after the word “Board” by striking out the words “and forms with the Department of Financial Regulation”

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bill Passed in Concurrence

H. 151.

House bill of the following title was read the third time and passed in concurrence:

An act relating to vital records, mausoleums and columbaria, and emergency health orders.

Third Reading Ordered

H. 154.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to the failure of municipal officers to accept office.

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.

Senate Resolution Adopted

S.R. 9.

Senate resolution entitled:

Senate resolution relating to extending concurrently conducted electronic sessions and committee meetings

Having been placed on the Calendar for action, was taken up and adopted.

Message from the House No. 51

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 considered joint resolution originating in the Senate of the following title:

J.R.S. 23. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

The Governor has informed the House that on April 13, 2021, he approved and signed bills originating in the House of the following titles:

H. 10. An act relating to permitted candidate expenditures.

H. 127. An act relating to approval of amendments to the charter of the Town of Barre.

Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Thursday, April 15, 2021.