

# Journal of the Senate

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FRIDAY, JANUARY 21, 2022

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Stannard Baker of Burlington.

## Message from the House No. 6

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 passed House bills of the following titles:

**H. 74.** An act relating to making miscellaneous changes concerning self-storage businesses.

**H. 627.** An act relating to the Vermont Economic Development Authority.

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

The House has considered Senate proposal of amendment to the following House bill:

**H. 157.** An act relating to registration of construction contractors.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

## Committee Relieved of Further Consideration; Bill Committed

### S. 250.

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

An act relating to enhanced administrative and judicial accountability of law enforcement officers,

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

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**Bill Referred to Committee on Finance****S. 210.**

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to rental housing health and safety and affordable housing.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 74.**

An act relating to making miscellaneous changes concerning self-storage businesses.

To the Committee on Economic Development, Housing and General Affairs.

**H. 627.**

An act relating to the Vermont Economic Development Authority.

To the Committee on Finance.

**Bills Amended; Third Readings Ordered****S. 74.**

Senator Hardy, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to modifications to Vermont's patient choice at end of life laws.

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

Sec. 1. 18 V.S.A. § 5281 is amended to read:

§ 5281. DEFINITIONS

As used in this chapter:

\* \* \*

(11) “Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(12) “Telemedicine” means the delivery of health care services such as diagnosis, consultation, or treatment through the use of live interactive audio

and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

Sec. 2. 18 V.S.A. § 5283 is amended to read:

§ 5283. REQUIREMENTS FOR PRESCRIPTION AND DOCUMENTATION; IMMUNITY

(a) A physician shall not be subject to any civil or criminal liability or professional disciplinary action if the physician prescribes to a patient with a terminal condition medication to be self-administered for the purpose of hastening the patient's death and the physician affirms by documenting in the patient's medical record that all of the following occurred:

(1) The patient made an oral request to the physician in the physician's physical presence or by telemedicine, if the physician determines the use of telemedicine to be clinically appropriate, for medication to be self-administered for the purpose of hastening the patient's death.

(2) ~~No~~ Not fewer than 15 days after the first oral request, the patient made a second oral request to the physician in the physician's physical presence or by telemedicine, if the physician determines the use of telemedicine to be clinically appropriate, for medication to be self-administered for the purpose of hastening the patient's death.

\* \* \*

(5) The physician determined that the patient:

(A) ~~was suffering a terminal condition, based on the physician's physical examination of the patient and review of the patient's relevant medical records and a physician's physical examination of the patient;~~

(B) was capable;

(C) was making an informed decision;

(D) had made a voluntary request for medication to hasten ~~his or her~~ the patient's own death; and

(E) was a Vermont resident.

(6) The physician informed the patient in person or by telemedicine, both verbally and in writing, of all the following:

\* \* \*

(12) The physician wrote the prescription ~~no fewer than 48 hours~~ after the last to occur of the following events:

(A) the patient's written request for medication to hasten ~~his or her~~ the patient's own death;

(B) the patient's second oral request; ~~or~~ and

(C) the physician's offering the patient an opportunity to rescind the request.

(13) The physician either:

(A) dispensed the medication directly, provided that at the time the physician dispensed the medication, ~~he or she~~ the physician was licensed to dispense medication in Vermont, had a current Drug Enforcement Administration certificate, and complied with any applicable administrative rules; or

\* \* \*

(14) The physician recorded and filed the following in the patient's medical record:

(A) the date, time, and wording of all oral requests of the patient for medication to hasten ~~his or her~~ the patient's own death;

(B) all written requests by the patient for medication to hasten ~~his or her~~ the patient's own death;

(C) the physician's diagnosis, prognosis, and basis for the determination that the patient was capable, was acting voluntarily, and had made an informed decision;

(D) the second physician's diagnosis, prognosis, and verification that the patient was capable, was acting voluntarily, and had made an informed decision;

(E) the physician's attestation that the patient was enrolled in hospice care at the time of the patient's oral and written requests for medication to hasten ~~his or her~~ the patient's own death or that the physician informed the patient of all feasible end-of-life services;

\* \* \*

Sec. 3. 18 V.S.A. § 5285 is amended to read:

§ 5285. LIMITATIONS ON ACTIONS

\* \* \*

(c) No physician, nurse, pharmacist, or other person licensed, certified, or otherwise authorized by law to deliver health care services in this State shall

be subject to civil or criminal liability or professional disciplinary action for acting in good faith compliance with the provisions of this chapter.

(d) Except as otherwise provided in this section and sections 5283, 5289, and 5290 of this title, nothing in this chapter shall be construed to limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person.

#### Sec. 4. 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.

### S. 183.

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

An act relating to midpoint probation review.

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

Sec. 1. 28 V.S.A. § 252 is amended to read:

#### § 252. CONDITIONS OF PROBATION AND MIDPOINT REVIEW

\* \* \*

(d) Review and recommendation for discharge.

(1) The Commissioner shall review the record of each probationer serving a specified term during the month prior to the midpoint of that probationer's specified term and shall file a motion requesting the sentencing court to dismiss the probationer from probation if the offender:

(A) has not been found by the court to have violated the conditions of probation in the six months prior to the review;

(B) is not serving a sentence for committing a crime specified in 13 V.S.A. chapter 19, subchapters 6 and 7; 13 V.S.A. chapter 72, subchapter 1; or 13 V.S.A. § 2602; and

(C) has completed those rehabilitative or risk reduction services required as a condition of probation that have a duration that is set and knowable at the outset of probation.

(2) If the probationer does not meet the criteria set forth in subdivision (1) of this subsection, ~~or if the court denies the Commissioner's motion to discharge,~~ the Commissioner shall file a motion requesting the sentencing court to discharge the probation term once the probationer meets the criteria set forth in subdivision (1) of this subsection.

(3) If a probationer meets the criteria set forth in subdivision (1) of this subsection and is subject to a pending criminal charge or violation of probation complaint, the Commissioner may file a motion requesting the sentencing court to dismiss the probationer from probation pursuant to this subsection. The motion shall identify the pending criminal charge or probation violation. After any pending criminal charges and probation violations are resolved, and if the probationer still meets the criteria set forth in subdivisions (1) of this subsection, the Commissioner shall file the motion requesting the sentencing court to dismiss the probationer from probation.

~~(3)~~(4) The prosecutor shall make a reasonable effort to notify any victim of record of a motion filed to reduce a probationer's term pursuant to this subsection. "Reasonable effort" means attempting to contact the victim by first-class mail at the victim's last known address and by telephone at the victim's last known phone number.

(5) Notwithstanding 1 V.S.A. § 214, and notwithstanding the requirement in subdivision (1) of this subsection that the Commissioner review the probationer's record during the month prior to the midpoint of that probationer's specified term, this subsection shall apply retroactively to any probationer serving a specified term of probation. If the probationer has already reached the midpoint of that probationer's specified term on or before the effective date of this act, the Commissioner shall review the probationer's record as soon as possible for purposes of filing a motion pursuant to this section.

Sec. 2. 28 V.S.A. § 251 is amended to read:

#### § 251. DURATION OF PROBATION

(a) The court placing a person on probation may terminate the period of probation and discharge the person at any time if such termination is warranted by the conduct of the offender and the ends of justice.

(b)(1) Upon the Commissioner's motion to discharge pursuant to subsection 252(d) of this title, the sentencing court shall terminate the period of probation and discharge the person at the midpoint of the probation term unless the prosecutor seeks a continuation of probation within 21 days ~~of~~ following receipt of notice of the Commissioner's motion; ~~and;~~

(A) the court finds by a preponderance of the evidence that termination and discharge will present a risk of danger to the victim of the offense or to the community; or

(B) the court finds by clear and convincing evidence that the probationer is not substantially in compliance with the conditions of probation that are related to the probationer's rehabilitation or to victim or community safety.

(2) If the court grants the prosecutor's motion to continue probation, it may continue probation for the full term or any portion thereof. The court shall also review the conditions of probation and remove any conditions that are no longer necessary for the remainder of the term.

(3) Notwithstanding 1 V.S.A. § 214, this subsection shall apply retroactively to any probationer serving a specified term of probation.

(c) A probationer shall not be deemed ineligible for discharge or term reduction due to unpaid restitution, fees, or surcharges.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on March 31, 2022.

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.

### **Appointment Confirmed**

The following Gubernatorial appointment was confirmed separately by the Senate, upon full report given by the Committee to which it was referred:

The nomination of

Valerio, Matthew of Proctor - Defender General - June 21, 2021 to February 28, 2025.

Was confirmed by the Senate.

### **Message from the House No. 7**

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 House concurrent resolutions of the following titles:

**H.C.R. 86.** House concurrent resolution designating January 2022 as School Board Recognition Month in Vermont.

**H.C.R. 87.** House concurrent resolution recognizing January 25, 2022, as Mentoring Day at the General Assembly.

The House has considered concurrent resolution originating in the Senate of the following title:

**S.C.R. 11.** Senate concurrent resolution honoring John Shannahan for his exemplary leadership of the Better Bennington Corporation.

And has adopted the same in concurrence.

#### **Senate Concurrent Resolution**

The following joint concurrent resolution, 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, was adopted on the part of the Senate:

By Senators Campion and Sears,

By Reps. Corcoran and others,

#### **S.C.R. 11.**

Senate concurrent resolution honoring John Shannahan for his exemplary leadership of the Better Bennington Corporation.

#### **House 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 in concurrence:

By Reps. Conlon and others,

#### **H.C.R. 86.**

House concurrent resolution designating January 2022 as School Board Recognition Month in Vermont.

By the Committee on Education,

#### **H.C.R. 87.**

House concurrent resolution recognizing January 25, 2022, as Mentoring Day at the General Assembly.



**Adjournment**

On motion of Senator Balint, the Senate adjourned, to reconvene on Tuesday, January 25, 2022, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 36.