

Journal of the Senate

THURSDAY, APRIL 21, 2022

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 Appropriations

House bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee Appropriations:

H. 505. An act relating to reclassification of penalties for unlawfully possessing, dispensing, and selling a regulated drug.

H. 517. An act relating to the Vermont National Guard Tuition Benefit Program.

Joint Resolution Referred

J.R.H. 20.

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

Joint resolution authorizing remote participation in joint committees through the remainder of 2022 for members with a disability as an accommodation under the Americans with Disabilities Act.

Resolved by the Senate and House of Representatives:

That Temporary Joint Rule 22A is amended to read as follows:

Rule 22A. Temporary Rule Regarding Joint Committee Meetings

(a)(1) Joint committees shall return to in-person legislating, except that a member of a joint committee may debate and vote remotely in that committee if the member notifies the committee's chair or a co-chair, as applicable, that the member meets one of the following conditions:

(A) the member has tested positive for COVID-19 and is within a required period of isolation;

(B) the member has been exposed to COVID-19 as a close contact and is within a required term of quarantine;

(C) the member has COVID-19 symptoms and is awaiting the results of a PCR test;

(D) the member has a household member who relies on the member for caregiving and the household member is required to be home due to one of the reasons set forth in subdivisions (A)–(C) of this subdivision (1) or because such a household member’s daycare or school program has a short-term closure due to COVID-19; ~~or~~

(E) the member provides to the joint committee chair or a co-chair, as applicable, written documentation from a health care provider indicating that the ongoing COVID-19 pandemic requires the member to participate remotely due to the member’s health condition; or

(F) the member has a disability and, upon the member’s request, is approved for remote participation as an accommodation under the Americans with Disabilities Act by the chair or co-chair, as applicable, who shall consult with the Office of Legislative Counsel and the Office of Legislative Human Resources in considering any such request.

(2) The definitions, required time periods, and testing referenced in ~~subdivision (1)~~ subdivisions (1)(A)-(E) of this subsection are those provided by Vermont Department of Health guidelines, including any revisions or updates.

* * *

(c) The remote authority set forth in this rule shall remain in effect through December 31, 2022.

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

**Consideration Resumed; Proposal of Amended; Bill Passed in
Concurrence with Proposal of Amendment**

H. 159.

Consideration was resumed on House bill entitled:

An act relating to community and economic development and workforce revitalization.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as proposed by Senators Sirotkin and Brock?, Senator Sirotkin requested and was granted leave to withdraw the proposal of amendment.

Thereupon, Senators Sirotkin and Brock moved that the Senate proposal of amendment be amended by adding a reader assistance heading and a Sec. 17a to read as follows:

* * * SALT Deduction Cap Workaround * * *

Sec. 17a. REPORT; CONSENSUS ESTIMATE; SALT DEDUCTION CAP WORKAROUND

(a) On or before January 15, 2023, the Commissioner of Taxes shall submit a written report to the House Committees on Commerce and Economic Development and on Ways and Means and the Senate Committees on Economic Development, Housing and General Affairs and on Finance providing fiscal analysis and proposing options, including recommended legislation, for creating an elective pass-through entity income tax and offsetting structure. The proposed options required under this section shall be structured in a way that includes:

(1) compliance with Treasury Department regulations and Internal Revenue Service guidance relating to the inapplicability of the limitation on individual itemized deductions under 26 U.S.C. § 164(d)(6) to pass-through entities; and

(2) a projected impact on the revenues of this State that is revenue neutral or revenue positive.

(b) In preparing the report and associated fiscal analysis required under subsection (a) of this section, the Commissioner shall consult with the Joint Fiscal Office and reach a consensus estimate of the revenue impact of the Commissioner's proposed options for creating an elective pass-through entity income tax and offsetting structure.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

House Proposal of Amendment Concurred In

S. 265.

House proposal of amendment to Senate bill entitled:

An act relating to expanding criminal threatening to include threats to third persons.

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. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct knowingly:

(1) threaten another person or a group of particular persons; and

(2) as a result of the threat, place the other person in reasonable apprehension of death, ~~or~~ serious bodily injury, or sexual assault to the other person, a person in the group of particular persons, or any other person.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(c) A person who violates subsection (a) of this section with the intent to prevent another person from reporting to the Department for Children and Families the suspected abuse or neglect of a child shall be imprisoned not more than two years or fined not more than ~~\$1,000.00~~ \$2,000.00, or both.

(d) A person who violates subsection (a) of this section by making a threat that places any person in reasonable apprehension that death, serious bodily injury, or sexual assault will occur at a public or private school; postsecondary education institution; place of worship; polling place during election activities; the Vermont State House; or any federal, State, or municipal building shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(e) A person who violates subsection (a) of this section with the intent to terrify, intimidate, or unlawfully influence a person to prevent that person from complying with State laws or rules, State court or administrative orders, or State executive orders shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(f) A person who violates subsection (a) of this section with the intent to terrify, intimidate, or unlawfully influence the conduct of a candidate for public office, a public servant, an election official, or a public employee in any decision, opinion, recommendation, vote, or other exercise of discretion taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, or with the intent to retaliate against a candidate for public office, a public servant, an election official, or a public employee for any previous action taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(g) As used in this section:

(1) “Serious bodily injury” ~~shall have~~ has the same meaning as in section 1021 of this title.

(2) “Threat” and “threaten” shall do not include constitutionally protected activity.

(3) “Candidate” has the same meaning as in 17 V.S.A. § 2103.

(4) “Election official” has the same meaning as in 17 V.S.A. § 2455.

(5) “Public employee” means a classified employee within the Legislative, Executive, or Judicial Branch of the State and any of its political subdivisions and any employee within a county or local government and any of the county’s or local government’s political subdivisions.

(6) “Public servant” has the same meaning as in 17 V.S.A. § 2103.

(7) “Polling place” has the same meaning as described in 17 V.S.A. chapter 51, subchapter 4.

(8) “Sexual assault” has the same meaning as sexual assault as described in section 3252 of this title.

~~(e)(h)~~ Any person charged under this section who is under 18 years of age younger than the age identified in 33 V.S.A. § 5201(d) shall be adjudicated as a juvenile delinquent subject to a juvenile proceeding.

~~(f)~~ It shall be an affirmative defense to a charge under this section that the person did not have the ability to carry out the threat. The burden shall be on the defendant to prove the affirmative defense by a preponderance of the evidence.

Sec. 2. 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.

Senate Resolution Adopted on the Part of the Senate

S.R. 16.

Senate resolution of the following title was read the third time and adopted on the part of the Senate:

Senate resolution urging the United States Postal Service to improve immediately the reliability and timeliness of its deliveries and requesting that Congress take any necessary legislative actions to effectuate this objective.

Bill Passed in Concurrence with Proposal of Amendment

H. 534.

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

An act relating to sealing criminal history records.

Third Reading Ordered

H. 399.

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

An act relating to incarceration terms for criminal defendants who are primary caretakers of dependent children.

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.

Rules Suspended; Bill Messaged

On motion of Senator Balint, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

H.159.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Madam President:

I am directed by the Governor to inform the Senate that on the twenty-first day of April, 2022 he approved and signed bills originating in the Senate of the following titles:

S. 113. An act relating to establishing a cause of action for medical monitoring expenses.

S. 183. An act relating to midpoint probation review.

S. 184. An act relating to defense of others and justifiable homicide.

Adjournment

On motion of Senator Balint, the Senate adjourned until eleven o'clock and thirty minutes in the morning.