

(10) Photoelectric-type smoke detectors provide earlier detection and warning than ionization-type smoke detectors in smoldering fires by minutes or tens of minutes. Ionization-type smoke detectors provide earlier detection and warning than photoelectric-type smoke detectors in flaming fires by seconds or tens of seconds. Therefore, although this act requires photoelectric-only-type smoke detectors for the reasons set forth in these findings, the general assembly does not discourage the use of ionization-type smoke detectors and combination smoke detectors in addition to photoelectric-only-type smoke detectors.

by renumbering the remaining subdivisions to be numerically correct and in subsection (b), after "Therefore" by adding ";

Second: In Sec. 2, 9 V.S.A. § 2882(a) and (b), in both of the two instances, by striking "photoelectric type only" and inserting in lieu thereof "photoelectric-only-type"

Third: In Sec. 3, 9 V.S.A. § 2883(a) and (b), in both of the two instances, by striking "photoelectric type only" and inserting in lieu thereof "photoelectric-only-type"

Fourth: In Sec. 5 (Effective Date), in subsection (a), by striking "July 1, 2008" and inserting in lieu thereof "upon passage"; in subsection (b), by striking "single family" and inserting in lieu thereof "single-family" and by striking "July 1, 2008" and inserting in lieu thereof "January 1, 2009"; in subsection (c), by striking "Sec. 2. (b) and Sec. 3" and inserting in lieu thereof "Secs. 2(b) and 3"; and in subsection (d), by striking "photoelectric type only" and inserting in lieu thereof "photoelectric-only-type" and after "prohibit" by inserting "and does not discourage"

and that after passage, the title of the bill should read: "

**AN ACT RELATING TO REQUIRING THE INSTALLATION OF
PHOTOELECTRIC-ONLY-TYPE SMOKE DETECTORS**

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 271

Rep. Clarkson of Woodstock, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to child support for children with disabilities;

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking Sec. 1. in its entirety, and inserting a new Sec. 1. to read:

Sec. 1. 15 V.S.A. § 658(g) is added to read:

(g) Upon motion, the court may extend child support up to the age of 22 for an individual found by the court to have significant physical, mental, or developmental disabilities. The court shall consider the factors identified in section 659 of this title in making its decision. The parent seeking the order shall provide the court with documentation of the child's disability.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 301

Rep. Marek of Newfane, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to enhancing the penalties for assaulting a law enforcement officer and to the crime of assault with bodily fluids;

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 1028 is amended to read:

§ 1028. ASSAULT OF LAW ENFORCEMENT OFFICER, FIREFIGHTER,
EMERGENCY ROOM PERSONNEL, OR EMERGENCY
MEDICAL PERSONNEL MEMBER

A person convicted of a simple or aggravated assault against a law enforcement officer, firefighter, emergency room personnel, or member of emergency services personnel as defined in subdivision 2651(6) of Title 24 while the officer, firefighter, or emergency medical personnel member is performing a lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:

- (1) For the first offense, be imprisoned not more than one year;
- (2) For the second offense and subsequent offenses, be imprisoned not more than ten years.

And request that the title be amended to read as follows "AN ACT RELATING TO ASSAULTS ON EMERGENCY ROOM PERSONNEL"

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Thereupon, **Rep. Chen of Mendon** moved to substitute a recommendation of proposal of amendment for that of the committee on Judiciary, as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 1028 is amended to read:

§ 1028. ASSAULT OF LAW ENFORCEMENT OFFICER, FIREFIGHTER, EMERGENCY DEPARTMENT PERSONNEL, OR EMERGENCY MEDICAL PERSONNEL MEMBER

A person convicted of a simple or aggravated assault against a law enforcement officer, firefighter, emergency department personnel, or member of emergency services personnel as defined in subdivision 2651(6) of Title 24 while the officer, firefighter, or emergency medical personnel member is performing a lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:

(1) For the first offense, be imprisoned not more than one year;

(2) For the second offense and subsequent offenses, be imprisoned not more than ten years.

And request that the title be amended to read as follows "AN ACT RELATING TO ASSAULTS ON EMERGENCY DEPARTMENT PERSONNEL"

Which was agreed to, and the recommendation of proposal of amendment offered by Rep. Chen of Mendon agreed to and third reading ordered.

**Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested**

H. 635

The Senate proposed to the House to amend House bill, entitled

An act relating to reports of child abuse or neglect;

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 4911 is amended to read:

§ 4911. PURPOSE

The purpose of this subchapter is to:

(1) ~~protect~~ Protect children whose health and welfare may be adversely affected through abuse or neglect;

(2) ~~strengthen~~ Strengthen the family and make the home safe for children whenever possible by enhancing the parental capacity for good child care;

(3) ~~provide~~ Provide a temporary or permanent nurturing and safe environment for children when necessary; and for these purposes require the reporting of suspected child abuse and neglect, an assessment or investigation of such reports and provision of services, when needed, to such child and family.

(4) Establish a range of responses to child abuse and neglect that take into account different degrees of child abuse or neglect and which recognize that child offenders should be treated differently from adults.

(5) Establish a tiered child protection registry that balances the need to protect children and the potential employment consequences of a registry record for persons who are substantiated for child abuse and neglect.

Sec. 2. 33 V.S.A. § 4912 is amended to read:

§ 4912. DEFINITIONS

As used in this subchapter:

(1) "Child" means an individual under the age of majority.

(2) An "abused or neglected child" means a child whose physical health, psychological growth and development or welfare is harmed or is at substantial risk of harm by the acts or omissions of his or her parent or other person responsible for the child's welfare. An "abused or neglected child" also means a child who is sexually abused or at substantial risk of sexual abuse by any person.

(3) "Harm" can occur by:

(A) Physical injury or emotional maltreatment;

(B) Failure to supply the child with adequate food, clothing, shelter, or health care. For the purposes of this subchapter, "adequate health care" includes any medical or nonmedical remedial health care permitted or authorized under state law. Notwithstanding that a child might be found to be without proper parental care under chapter 55 of Title 33, a parent or other person responsible for a child's care legitimately practicing his or her religious

beliefs who thereby does not provide specified medical treatment for a child shall not be considered neglectful for that reason alone; or

(C) Abandonment of the child.

(4) "Risk of harm" means a significant danger that a child will suffer serious harm other than by accidental means, which harm would be likely to cause physical injury, neglect, emotional maltreatment or sexual abuse.

(5) "A person responsible for a child's welfare" includes the child's parent; guardian; foster parent; any other adult residing in the child's home who serves in a parental role; an employee of a public or private residential home, institution or agency; or other person responsible for the child's welfare while in a residential, educational, or child care setting, including any staff person.

(6) "Physical injury" means death, or permanent or temporary disfigurement or impairment of any bodily organ or function by other than accidental means.

(7) "Emotional maltreatment" means a pattern of malicious behavior which results in impaired psychological growth and development.

(8) "Sexual abuse" consists of any act or acts by any person involving sexual molestation or exploitation of a child including but not limited to incest, prostitution, rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts a sexual conduct, sexual excitement or sadomasochistic abuse involving a child.

(9) "Multi-disciplinary team" means a group of professionals, paraprofessionals and other appropriate individuals, empanelled by the commissioner of ~~social and rehabilitation services~~ under this chapter, for the purpose of assisting in the identification and ~~investigation~~ review of cases of child abuse and neglect, coordinating treatment services for abused and neglected children and their families and promoting child abuse prevention.

(10) "Substantiated report" means that the commissioner or the commissioner's designee has determined after investigation that a report is based upon accurate and reliable information that would lead a reasonable person to believe that the child has been abused or neglected.

(11) [Repealed.]

(12) "Member of the clergy" means a priest, rabbi, clergy member,

ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, nun, brother, ordained or licensed minister, leader of any church or religious body, or accredited Christian Science practitioner.

(13) "Redacted investigation file" means the intake report, the investigation activities summary, and case determination report that are amended in accordance with confidentiality requirements set forth in subsection 4913(d) of this title.

(14) "~~Child abuse and neglect~~ protection registry" means a record of all investigations that have resulted in a substantiated report on or after January 1, 1992.

(15) "Registry record" means an entry in the ~~abuse and neglect~~ child protection registry that consists of the name of an individual substantiated for child abuse or neglect, the date of the finding, the nature of the finding, and at least one other personal identifier, other than a name, listed in order to avoid the possibility of misidentification.

(16) "Investigation" means a response to a report of child abuse or neglect that begins with the systematic gathering of information to determine whether the abuse or neglect has occurred and, if so, the appropriate response. An investigation shall result in a formal determination as to whether the reported abuse or neglect has occurred.

(17) "Assessment" means a response to a report of child abuse or neglect that focuses on the identification of the strengths and support needs of the child and the family, and any services they may require to improve or restore their well-being and to reduce the risk of future harm. The child and family assessment does not result in a formal determination as to whether the reported abuse or neglect has occurred.

Sec. 3. 33 V.S.A. § 4913 is amended to read:

§ 4913. REPORTING SUSPECTED CHILD ABUSE AND NEGLECT;

(a) Any physician, surgeon, osteopath, chiropractor, or physician's assistant licensed, certified, or registered under the provisions of Title 26, any resident physician, intern, or any hospital administrator in any hospital in this state, whether or not so registered, and any registered nurse, licensed practical nurse, medical examiner, emergency medical personnel as defined in 24 V.S.A. § 2651(6), dentist, psychologist, pharmacist, any other health care provider, child care worker, school superintendent, school teacher, school librarian, child-care worker, school principal, school guidance counselor, and any other individual

who is regularly employed by a school district, or who is contracted and paid by a school district to provide student services for 5 or more hours per week during the school year, mental health professional, social worker, probation officer, police officer, camp owner, camp administrator, camp counselor, or member of the clergy who has reasonable cause to believe that any child has been abused or neglected shall report or cause a report to be made in accordance with the provisions of section 4914 of this title within 24 hours. As used in this subsection, "camp" includes any residential or nonresidential recreational program.

(b) ~~Any other concerned person not listed in subsection (a) of this section who has reasonable cause to believe that any child has been abused or neglected may report or cause a report to be made in accordance with the provisions of section 4914 of this title. The commissioner shall inform the person who made the report under subsection (a) of this section:~~

(1) whether the report was accepted as a valid allegation of abuse or neglect;

(2) whether an assessment was conducted and, if so, whether a need for services was found; and

(3) whether an investigation was conducted and, if so, whether it resulted in a substantiation.

(c) Any other concerned person not listed in subsection (a) of this section who has reasonable cause to believe that any child has been abused or neglected may report or cause a report to be made in accordance with the provisions of section 4914 of this title.

(e)(d)(1) Any person enumerated in subsection (a) or (b) of this section, other than a person suspected of child abuse, who in good faith makes a report to the department of social and rehabilitation services shall be immune from any civil or criminal liability which might otherwise be incurred or imposed as a result of making a report.

(2) An employer or supervisor shall not discharge; demote; transfer; reduce pay, benefits, or work privileges; prepare a negative work performance evaluation; or take any other action detrimental to any employee because that employee filed a good faith report in accordance with the provisions of this subchapter. Any person making a report under this subchapter shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of the reporting party by reason of his or her making a report.

~~(d)~~(c) The name of and any identifying information about either the person making the report or any person mentioned in the report shall be confidential unless:

(1) the person making the report specifically allows disclosure ~~or unless~~;

(2) a human services board proceeding or a judicial proceeding results therefrom ~~or unless~~;

(3) a court, after a hearing, finds probable cause to believe that the report was not made in good faith and orders the department to make the name of the reporter available; or

(4) a review has been requested pursuant to section 4916a of this title, and the department has determined that identifying information can be provided without compromising the safety of the reporter or the persons mentioned in the report.

~~(e)~~(f)(1) A person who violates subsection (a) of this section shall be fined not more than \$500.00.

(2) A person who violates subsection (a) of this section with the intent to conceal abuse or neglect of a child shall be imprisoned not more than six months or fined not more than \$1,000.00, or both.

(3) This section shall not be construed to prohibit a prosecution under any other provision of law.

~~(f)~~(g) Except as provided in subsection ~~(g)~~(h) of this section, a person may not refuse to make a report required by this section on the grounds that making the report would violate a privilege or disclose a confidential communication.

~~(g)~~(h) A member of the clergy shall not be required to make a report under this section if the report would be based upon information received in a communication which is:

(1) made to a member of the clergy acting in his or her capacity as spiritual advisor;

(2) intended by the parties to be confidential at the time the communication is made;

(3) intended by the communicant to be an act of contrition or a matter of conscience; and

(4) required to be confidential by religious law, doctrine, or tenet.

~~(h)~~(i) When a member of the clergy receives information about abuse or neglect of a child in a manner other than as described in subsection

(g)(h) of this section, he or she is required to report on the basis of that information even though he or she may have also received a report of abuse or neglect about the same person or incident in the manner described in subsection (g)(h) of this section.

Sec. 4. 33 V.S.A. § 4914 is amended to read:

§ 4914. NATURE AND CONTENT OF REPORT; TO WHOM MADE

A report shall be made orally or in writing to the commissioner ~~for children and families~~ or designee. The commissioner or designee shall request the reporter to follow the oral report with a written report, unless the reporter is anonymous. Reports shall contain the name and address or other contact information of the reporter as well as the names and addresses of the child and the parents or other persons responsible for the child's care, if known; the age of the child; the nature and extent of the child's injuries together with any evidence of previous abuse and neglect of the child or the child's siblings; and any other information that the reporter believes might be helpful in establishing the cause of the injuries or reasons for the neglect as well as in protecting the child and assisting the family. If a report of child abuse or neglect involves the acts or omissions of the commissioner ~~for children and families~~ or employees of ~~that the~~ department, then the report shall be directed to the secretary of the agency of human services who shall cause the report to be investigated by other appropriate agency staff ~~other than staff of the department for children and families~~. If the report is substantiated, services shall be offered to the child and to his or her family or caretaker according to the requirements of section ~~4915~~ 4915b of this title.

Sec. 5. 33 V.S.A. § 4915 is amended to read:

§ 4915. ASSESSMENT AND INVESTIGATION; REMEDIAL ACTION

(a) Upon receipt of a report of abuse or neglect, the department shall promptly determine whether it constitutes an allegation of child abuse or neglect as defined in section 4912 of this title. The department shall respond to reports of alleged neglect or abuse that occurred in Vermont and to out-of-state conduct when the child is a resident of or is present in Vermont.

(b) If the report is accepted as a valid allegation of abuse or neglect, the department shall determine whether to conduct an assessment as provided for in section 4915a of this title or to conduct an investigation as provided for in section 4915b of this title. The department shall begin either an assessment or an investigation within 72 hours after the receipt of a report made pursuant to section 4914 of this title, provided that it has sufficient information to proceed. The commissioner may waive the 72-hour requirement only when necessary to

locate the child who is the subject of the allegation or to ensure the safety of the child or social worker.

(c) The decision to conduct an assessment shall include consideration of the following factors:

(1) the nature of the conduct and the extent of the child's injury, if any;

(2) the accused person's prior history of child abuse or neglect, or lack thereof; and

(3) the accused person's willingness or lack thereof to accept responsibility for the conduct and cooperate in remediation.

(d) The department shall conduct an investigation when an accepted report involves allegations indicating substantial child endangerment. For purposes of this section, "substantial child endangerment" includes conduct by an adult involving or resulting in sexual abuse, and conduct by a person responsible for a child's welfare involving or resulting in abandonment, child fatality, malicious punishment, or abuse or neglect that causes serious physical injury. The department may conduct an investigation of any report.

(e) The department shall begin an immediate investigation if, at any time during an assessment, it appears that an investigation is appropriate.

(f) The department may collaborate with child protection, law enforcement, and other departments and agencies in Vermont and other jurisdictions to evaluate risk to a child and to determine the service needs of the child and family. The department may enter into reciprocal agreements with other jurisdictions to further the purposes of this subchapter.

~~(b) The investigation, to the extent that it is reasonable under the facts and circumstances presented by the particular allegation of child abuse, shall include all of the following:~~

~~(1) A visit to the child's place of residence or place of custody and to the location of the alleged abuse or neglect.~~

~~(2) An interview with, or observance of the child reportedly having been abused or neglected. If the investigator elects to interview the child, that interview may take place without the approval of the child's parents, guardian, or custodian, provided that it takes place in the presence of a disinterested adult who may be, but shall not be limited to being, a teacher, a member of the clergy, child care provider regulated by the department, or a nurse.~~

~~(3) Determination of the nature, extent, and cause of any abuse or neglect.~~

(4) Determination of the identity of the person alleged to be responsible for such abuse or neglect.

~~(5)(A) The identity, by name, of any other children living in the same home environment as the subject child. The investigator shall consider the physical and emotional condition of those children and may interview them, in accordance with the provisions of subdivision (2) of this subsection, unless the subject child is the person who is alleged to be responsible for such abuse or neglect.~~

~~(B) The identity, by name, of any other children who may be at risk if the abuse was alleged to have been committed by someone who is not a member of the subject child's household. The investigator shall consider the physical and emotional condition of those children and may interview them, in accordance with the provisions of subdivision (2) of this subsection, unless the subject child is the person who is alleged to be responsible for such abuse or neglect.~~

~~(6) A determination of the immediate and long-term risk to each child if that child remains in the existing home or other environment.~~

~~(7) Consideration of the environment and the relationship of any children therein to the person alleged to be responsible for the suspected abuse or neglect.~~

~~(8) All other data deemed pertinent.~~

~~(c) For cases investigated by the department, the commissioner may, to the extent that it is reasonable, provide assistance to the child and the child's family.~~

~~(d) The commissioner, designee, or any person required to report under section 4913 or any other person performing an investigation pursuant to section 4914 may take or cause to be taken, photographs of trauma visible on a child who is the subject of a report. The commissioner or designee may seek consultation with a physician. If it is indicated as appropriate by the physician, the commissioner or designee may cause the child who is subject of a report to undergo a radiological examination, without the consent of the child's parent or guardian.~~

~~(e) Services may be provided to the child's immediate family whether or not the child remains in the home.~~

~~(f) The department shall report to and request assistance from law enforcement in the following circumstances:~~

(1) ~~Investigations of child sexual abuse by an alleged perpetrator age 10 or older.~~

(2) ~~Investigations of serious physical abuse or neglect of a child likely to result in criminal charges or requiring emergency medical care.~~

(3) ~~Situations potentially dangerous to the child or department worker.~~

Sec. 6. 33 V.S.A. § 4915a is added to read:

§ 4915a. PROCEDURES FOR ASSESSMENT

(a) An assessment, to the extent that is reasonable under the facts and circumstances presented by the particular valid allegation of child abuse or neglect, shall include the following:

(1) An interview with the child's parent, guardian, foster parent, or any other adult residing in the child's home who serves in a parental role. The interview shall focus on ensuring the immediate safety of the child and mitigating the future risk of harm to the child in the home environment.

(2) An evaluation of the safety of the subject child and any other children living in the same home environment. The evaluation may include an interview with or observation of the child or children. Such interviews or observations shall occur with the permission of the child's parent, guardian, or custodian.

(3) In collaboration with the family, identification of family strengths, resources, and service needs, and the development of a plan of services that reduces the risk of harm and improves or restores family well-being.

(b) The assessment shall be completed within 45 days. Upon written justification by the department, the assessment may be extended, not to exceed a total of 60 days.

(c) Families have the option of declining the services offered as a result of the assessment. If the family declines the services, the case shall be closed unless the department determines that sufficient cause exists to begin an investigation or to request the state's attorney to file a petition pursuant to chapter 55 of this title. In no instance shall a case be investigated solely because the family declines services.

(d) When an assessment case is closed, there shall be no finding of abuse or neglect and no indication of the intervention shall be placed in the registry. However, the department shall document the outcome of the assessment.

Sec. 7. 33 V.S.A. § 4915b is added to read:

§ 4915b. PROCEDURES FOR INVESTIGATION

(a) An investigation, to the extent that it is reasonable under the facts and circumstances presented by the particular allegation of child abuse, shall include all of the following:

(1) A visit to the child's place of residence or place of custody and to the location of the alleged abuse or neglect.

(2) An interview with or observation of the child reportedly having been abused or neglected. If the investigator elects to interview the child, that interview may take place without the approval of the child's parents, guardian, or custodian, provided that it takes place in the presence of a disinterested adult who may be, but shall not be limited to being, a teacher, a member of the clergy, a child care provider regulated by the department, or a nurse.

(3) Determination of the nature, extent, and cause of any abuse or neglect.

(4) Determination of the identity of the person alleged to be responsible for such abuse or neglect.

(5)(A) The identity, by name, of any other children living in the same home environment as the subject child. The investigator shall consider the physical and emotional condition of those children and may interview them, unless the child is the person who is alleged to be responsible for such abuse or neglect, in accordance with the provisions of subdivision (2) of this subsection.

(B) The identity, by name, of any other children who may be at risk if the abuse was alleged to have been committed by someone who is not a member of the subject child's household. The investigator shall consider the physical and emotional condition of those children and may interview them, unless the child is the person who is alleged to be responsible for such abuse or neglect, in accordance with the provisions of subdivision (2) of this subsection.

(6) A determination of the immediate and long-term risk to each child if that child remains in the existing home or other environment.

(7) Consideration of the environment and the relationship of any children therein to the person alleged to be responsible for the suspected abuse or neglect.

(8) All other data deemed pertinent.

(b) For cases investigated and substantiated by the department, the commissioner shall, to the extent that it is reasonable, provide assistance to the child and the child's family. For cases investigated but not substantiated by the department, the commissioner may, to the extent that it is reasonable, provide assistance to the child and the child's family. Nothing contained in

this section or section 4915a of this title shall be deemed to create a private right of action.

(c) The commissioner, designee, or any person required to report under section 4913 of this title or any other person performing an investigation may take or cause to be taken photographs of trauma visible on a child who is the subject of a report. The commissioner or designee may seek consultation with a physician. If it is indicated appropriate by the physician, the commissioner or designee may cause the child who is subject of a report to undergo a radiological examination without the consent of the child's parent or guardian.

(d) Services may be provided to the child's immediate family whether or not the child remains in the home.

(e) The department shall report to and request assistance from law enforcement in the following circumstances:

(1) Investigations of child sexual abuse by an alleged perpetrator age 10 or older.

(2) Investigations of serious physical abuse or neglect likely to result in criminal charges or requiring emergency medical care.

(3) Situations potentially dangerous to the child or department worker.

(f) The department shall not substantiate cases in which neglect is caused solely by the lack of financial resources of the parent or guardian.

Sec. 8. 33 V.S.A. § 4916 is amended to read:

**§ 4916. ~~CHILD ABUSE AND NEGLECT~~ PROTECTION REGISTRY;
~~RECORDS OF ABUSE AND NEGLECT~~**

(a)(1) The commissioner shall maintain a ~~abuse and neglect~~ child protection registry which shall contain a record of all investigations that have resulted in a substantiated report on or after January 1, 1992. Except as provided in subdivision (2) of this subsection, prior to placement of a substantiated report on the registry, the commissioner shall comply with the procedures set forth in section 4916a of this title.

(2) In cases involving sexual abuse or serious physical abuse of a child, the commissioner in his or her sole judgment may list a substantiated report on the registry pending any administrative review after:

(A) Reviewing the investigation file.

(B) Making written findings in consideration of:

(i) the nature and seriousness of the alleged behavior; and

(ii) the person's continuing access to children.

(3) A person alleged to have abused or neglected a child and whose name has been placed on the registry in accordance with subdivision (2) of this subsection shall be notified of the registry entry, provided with the commissioner's findings, and advised of the right to seek an administrative review in accordance with section 4916a of this title.

(4) If the name of a person has been placed on the registry in accordance with subdivision (2) of this subsection, it shall be removed from the registry if the substantiation is rejected after an administrative review.

(b) A registry record means an entry in the ~~abuse and neglect child protection registry~~ that consists of the name of an individual substantiated for child abuse or neglect, the date of the finding, the nature of the finding, and at least one other personal identifier, other than a name, listed in order to avoid the possibility of misidentification.

(c) The commissioner shall adopt rules to permit use of the registry records as authorized by this subchapter while preserving confidentiality of the registry and other department records related to abuse and neglect.

~~(d) Registry records shall only be disclosed to the commissioner or person designated by the commissioner to receive such records, persons assigned by the commissioner to investigate reports, the person reported on, an employer as defined in subsection 4919(e) of this title, or a state's attorney or the attorney general. In no event shall registry records be made available for employment purposes other than as set forth in section 309 or 4919 of this title, or for credit purposes. Any person who violates this subsection shall be fined not more than \$500.00.~~

For all substantiated reports of child abuse or neglect made on or after the date the final rules are adopted, the commissioner shall create a registry record that reflects a designated child protection level related to the risk of future harm to children. This system of child protection levels shall be based upon an evaluation of the risk the person responsible for the abuse or neglect poses to the safety of children. The risk evaluation shall include consideration of the following factors:

(A) the nature of the conduct and the extent of the child's injury, if any;

(B) the person's prior history of child abuse or neglect as either a victim or perpetrator;

(C) the person's response to the investigation and willingness to engage in recommended services; and

(D) the person's age and developmental maturity.

~~(c)(1) Verbal Notice. The commissioner or the commissioner's designee shall promptly inform a parent or guardian of the child that a report has been made and substantiated. If a parent or guardian is under investigation for abuse or neglect, such information need only be provided to that parent or guardian in accordance with subsection 4916(d) of this title.~~

~~(2) Written Records. Absent good cause shown by the department, if a report has been substantiated, the commissioner or the commissioner's designee shall provide upon request the redacted investigation file to the child's parent or guardian or, if there is a pending juvenile proceeding or if the child is in custody of the commissioner, to the child's attorney.~~

The commissioner shall develop rules for the implementation of a system of child protection registry levels for substantiated cases. The rules shall address:

(1) the length of time a person's name appears on the registry;

(2) when and how names are expunged from the registry;

(3) whether the person is a juvenile or an adult;

(4) whether the person was charged with or convicted of a criminal offense arising out of the incident of abuse or neglect; and

(5) whether a family court has made any findings against the person.

~~(f)(1) The commissioner or the commissioner's designee may inform the following persons that a report has been substantiated:~~

~~(A) The person responsible for supervising the staff in the child's residential, educational or child care setting.~~

~~(B) Upon request, to the person who made the report under subsection 4913(a) of this title.~~

~~(C) Any person authorized by law to receive such information.~~

~~(2) A person receiving information under this subsection shall not disclose that information to persons who are not involved with the provision of treatment services under section 4915 of this title to the abused or neglected child.~~

Sec. 9. 33 V.S.A. § 4916a is amended to read:

§ 4916a. CHALLENGING PLACEMENT ON THE REGISTRY

(a) If an investigation conducted in accordance with section ~~4915~~ 4915b of this title results in a determination that a report of child abuse or neglect should be substantiated, the department shall notify the person alleged to have abused or neglected a child of the following:

(1) The nature of the substantiation decision, and that the department intends to enter the record of the substantiation into the registry.

(2) Who has access to registry information and under what circumstances.

(3) The implications of having one's name placed on the registry as it applies to employment, licensure, and registration.

(4) The right to request a review of the substantiation determination by an administrative reviewer, the time in which the request for review shall be made, and the consequences of not seeking a review.

(5) The right to receive a copy of the commissioner's written findings made in accordance with subdivision 4916(a)(2) of this title if applicable.

(b) Under this section, notice by the department to a person alleged to have abused or neglected a child shall be by first class mail sent to the person's last known address.

(c)(1) A person alleged to have abused or neglected a child may seek an administrative review of the department's intention to place the person's name on the registry by notifying the department within 14 days of the date the department mailed notice of the right to review in accordance with subsections (a) and (b) of this section. The commissioner may grant an extension past the 14-day period for good cause, not to exceed 28 days after the department has mailed notice of the right to review.

(2) The administrative review may be stayed upon request of the person alleged to have committed abuse or neglect if there is a related case pending in court. During the period the review is stayed, the person's name shall be placed on the registry with an additional entry that the substantiation decision has been appealed. Any authorized individual inquiring whether the person's name is on the registry shall be informed that the name is on the registry and the substantiation decision has been appealed. The court where the case is being adjudicated shall inform the registry review unit when the case is concluded.

(d) The department shall hold an administrative review conference within ~~14~~ 35 days of receipt of the request for review. At least ~~seven~~ ten days prior to the administrative review conference, the department shall provide to the

person requesting review a copy of the redacted investigation file, notice of time and place of the conference, and conference procedures, including information that may be submitted and mechanisms for providing testimony. The department shall also provide to the person those redacted investigation files that relate to prior investigations that the department has relied upon to make its substantiation determination in the case in which a review has been requested.

(e) At the administrative review conference, the person who requested the review shall be provided with the opportunity to present documentary evidence or other information that supports his or her position and provides information to the reviewer in making the most accurate decision regarding the allegation. The department shall have the burden of proving that it has accurately and reliably concluded that a reasonable person would believe that the child has been abused or neglected by that person. Upon the person's request, the conference may be held by teleconference.

(f) The department shall establish an administrative case review unit within the department and contract for the services of administrative reviewers. An administrative reviewer shall be a neutral and independent arbiter who has no prior involvement in the original investigation of the allegation.

(g) Within seven days of the conference, the administrative reviewer shall:

- (1) reject the department's substantiation determination;
- (2) accept the department's substantiation; or
- (3) place the substantiation determination on hold and direct the department to further investigate the case based upon recommendations of the reviewer.

(h) If the administrative reviewer accepts the department's substantiation determination, a registry record shall be made immediately. If the reviewer rejects the department's substantiation determination, no registry record shall be made.

(i) Within seven days of the decision to reject or accept or to place the substantiation on hold in accordance with subsection (g) of this section, the administrative reviewer shall provide notice to the person of his or her decision. If the administrative reviewer accepts the department's substantiation, the notice shall advise the person of the right to appeal the administrative reviewer's decision to the human services board in accordance with section 4916b of this title.

(j) Persons whose names were placed on the registry on or after January 1, 1992 but prior to July September 1, 2007 shall be entitled to an opportunity to

seek an administrative review to challenge the substantiation pursuant to this section.

(k) If no administrative review is requested, the department's decision in the case shall be final, and the person shall have no further right of review under this section. The commissioner may grant a waiver and permit such a review upon good cause shown. Good cause may include an acquittal or dismissal of a criminal charge arising from the incident of abuse or neglect.

(l) In exceptional circumstances, the commissioner, in his or her sole and nondelegable discretion, may reconsider any decision made by a reviewer. A commissioner's decision that creates a registry record may be appealed to the human services board in accordance with section 4916b of this title.

Sec. 10. 33 V.S.A. § 4916c is amended to read:

§ 4916c. PETITION FOR EXPUNGEMENT FROM THE REGISTRY

(a) A person whose name has been placed on the registry prior to July 1, 2009 and has been listed on the registry for at least seven three years may file a written request with the commissioner, seeking a review for the purpose of expunging an individual registry record. A person whose name has been placed on the registry on or after July 1, 2009 and has been listed on the registry for at least seven years may file a written request with the commissioner, seeking a review for the purpose of expunging an individual registry record. The commissioner shall grant a review upon request.

(b) The person shall have the burden of proving that a reasonable person would believe that he or she no longer presents a risk to the safety or well-being of children. Factors to be considered by the commissioner shall include:

(1) The nature of the substantiation that resulted in the person's name being placed on the registry.

(2) The number of substantiations, if more than one.

(3) The amount of time that has elapsed since the substantiation.

(4) The circumstances of the substantiation that would indicate whether a similar incident would be likely to occur.

(5) Any activities that would reflect upon the person's changed behavior or circumstances, such as therapy, employment, or education.

(6) References that attest to the person's good moral character.

(c) At the review, the person who requested the review shall be provided with the opportunity to present any evidence or other information, including

witnesses, that supports his or her request for expungement. Upon the person's request, the review may be held by teleconference.

(d) A person may seek a review under this section no more than once every 36 months.

(e) Within 30 days of the date on which the commissioner mailed notice of the decision pursuant to this section, a person may appeal the decision to the human services board. The person shall be prohibited from challenging his or her substantiation at such hearing, and the sole issue before the board shall be whether the commissioner abused his or her discretion in denial of the petition for expungement. The hearing shall be on the record below, and determinations of credibility of witnesses made by the commissioner shall be given deference by the board.

(f) The department shall take steps to provide reasonable notice to persons on the registry of their right to seek an expungement under this section. Actual notice is not required. Reasonable steps may include activities such as the production of an informative fact sheet about the expungement process, posting of such information on the department website, and other approaches typically taken by the department to inform the public about the department's activities and policies. The department shall send notice of the expungement process to any person listed on the registry for whom a registry check has been requested.

Sec. 11. 33 V.S.A. § 4916d is amended to read:

§ 4916d. AUTOMATIC EXPUNGEMENT OF REGISTRY RECORDS OF MINORS

~~Registry entries concerning a person who was substantiated for behavior occurring before the person reached 10 years of age shall be expunged when the person reaches the age of 18, provided that the person has had no additional substantiated registry entries. A registry record shall not be made of a person substantiated for behavior occurring before the person reached 11 years of age, except in extraordinary circumstances. A person substantiated for behavior occurring after the person reached 11 but before 18 years of age and whose name has been listed on the registry for at least three years may file a written request with the commissioner, seeking a review for the purpose of expunging an individual registry record in accordance with section 4916c of this title.~~

Sec. 12. 33 V.S.A. § 4917 is amended to read:

§ 4917. MULTI-DISCIPLINARY TEAMS; EMPANELING

(a) ~~The commissioner of social and rehabilitation services,~~ or his or her designee may empanel a multi-disciplinary team wherever in the state there

may be a probable case of child abuse or neglect which warrants the coordinated use of several professional services.

(b) The commissioner ~~of social and rehabilitation services~~, or his or her designee, in conjunction with professionals and community agencies, shall appoint members to the multi-disciplinary teams which may include persons who are trained and engaged in work relating to child abuse or neglect such as medicine, mental health, social work, nursing, ~~day~~ child care, education, law or law enforcement. Additional persons may be appointed when the services of those persons are appropriate to any particular case.

(c) The empanelling of a multi-disciplinary team shall be authorized in writing and shall specifically list the members of the team. This list may be amended from time to time as needed as determined by the commissioner or his or her designee.

Sec. 13. 33 V.S.A. § 4918 is amended to read:

§ 4918. MULTI-DISCIPLINARY TEAMS; FUNCTIONS; GUIDELINES

(a) Multi-disciplinary teams shall assist local district offices of the ~~department of social and rehabilitation services~~ in identifying and treating child abuse ~~and~~ or neglect cases. With respect to any case referred to it, the team ~~shall~~ may assist the district office by providing:

(1) case diagnosis or identification;

(2) a comprehensive treatment plan; and

(3) coordination of services pursuant to the treatment plan.

(b) Multi-disciplinary teams may also provide public informational and educational services to the community about identification, treatment and prevention of child abuse and neglect. It shall also foster communication and cooperation among professionals and organizations in its community, and provide such recommendations or changes in service delivery as it deems necessary.

Sec. 14. 33 V.S.A. § 4919 is amended to read:

§ 4919. DISCLOSURE OF ~~INFORMATION~~ REGISTRY RECORDS

(a) The commissioner ~~or the commissioner's designee~~ may disclose a registry information record only as ~~set forth in section 4916 of this title or as~~ follows:

(1) To the state's attorney or the attorney general;

(2) To the owner or operator of a facility regulated by the department for

the purpose of informing the owner or operator that employment of a specific individual may result in loss of license ~~or~~, registration, certification, or authorization as set forth in section 309 of this title;

(3) To an employer if such information is used to determine whether to hire or retain a specific individual providing care, custody, treatment, transportation, or supervision of children or vulnerable adults. The employer may submit a request concerning a current employee, volunteer, grantee, or contractor or an individual to whom the employer has given a conditional offer of a contract, volunteer position, or employment. The request shall be accompanied by a release signed by the current or prospective employee, volunteer, grantee, or contractor. If that individual has a record of a substantiated report, the commissioner shall provide the registry record to the employer; The employer shall not disclose the information contained in the registry report.

(4) To the ~~commissioner~~ commissioners of disabilities, aging, and independent living, and of mental health, or ~~the commissioner's designee~~ their designees, for purposes related to the licensing or registration of facilities regulated by ~~the department of disabilities, aging, and independent living;~~ those departments.

(5) To the ~~commissioner~~ commissioners of health ~~or~~, of disabilities, aging, and independent living, and of mental health, or ~~the commissioner's designee~~ their designees, for purposes related to oversight and monitoring of persons who are served by or compensated with funds provided by ~~the departments of health and of disabilities, aging, and independent living;~~ those departments, including persons to whom a conditional offer of employment has been made;

(6) Upon request or when relevant to other states' adult protective services offices; ~~and~~.

(7) Upon request or when relevant to other states' child protection agencies.

(8) To the person substantiated for child abuse and neglect who is the subject of the record.

(b) An employer providing transportation services to children or vulnerable adults may disclose registry records obtained pursuant to subdivision (a)(3) of this section to the agency of human services or its designee for the sole purpose of auditing the records to ensure compliance with this subchapter. An employer shall provide such records at the request of the agency or its designee. Only registry records regarding individuals who provide direct transportation services or otherwise have direct contact with children or

vulnerable adults may be disclosed.

(c) Volunteers shall be considered employees for purposes of this section.

(d) Disclosure of registry records or information or other records used or obtained in the course of providing services to prevent child abuse or neglect or to treat abused or neglected children and their families by one member of a multidisciplinary team to another member of that team shall not subject either member of the multidisciplinary team, individually, or the team as a whole, to any civil or criminal liability notwithstanding any other provision of law.

(e) "Employer," as used in this section, means a person or organization who employs or contracts with one or more individuals to care for or provide transportation services to children or vulnerable adults, on either a paid or volunteer basis.

(f) In no event shall registry records be made available for employment purposes other than as set forth in this subsection, or for credit purposes. Any person who violates this subsection shall be fined not more than \$500.00.

(g) Nothing in this subsection shall limit the department's right to use and disclose information from its records as provided in section 4921 of this chapter.

Sec. 15. 33 V.S.A. § 4920 is amended to read:

§ 4920. RETALIATORY ACTION BY EMPLOYER PROHIBITED

~~An employer or supervisor shall not discharge, demote, transfer, reduce pay, benefits or work privileges, prepare a negative work performance evaluation or take any other action detrimental to any employee because that employee filed a good faith report in accordance with the provisions of this subchapter. Any person making a report under this subchapter shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of the reporting party by reason of his or her making a report.~~

Sec. 16. 33 V.S.A. § 4921 is added to read:

§ 4921. DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT

(a) The commissioner shall maintain all records of all investigations, assessments, reviews, and responses initiated under this subchapter. The department may use and disclose information from such records in the usual course of its business, including to assess future risk to children, to provide appropriate services to the child or members of the child's family, or for other legal purposes.

(b) The commissioner shall promptly inform the parents, if known, or guardian of the child that a report has been accepted as a valid allegation pursuant to subsection 4915(b) of this title and the department's response to the report. The department shall inform the parent or guardian of his or her ability to request records pursuant to subsection (c) of this section.

(c) Upon request, the redacted investigation file shall be disclosed to:

(1) the child's parents, foster parent, or guardian, absent good cause shown by the department, provided that the child's parent, foster parent, or guardian is not the subject of the investigation; and

(2) the person alleged to have abused or neglected the child, as provided for in subsection 4916a(d) of this title.

(d) Upon request, department records created under this subchapter shall be disclosed to:

(1) the court, parties to the juvenile proceeding, and the child's guardian ad litem if there is a pending juvenile proceeding or if the child is in the custody of the commissioner;

(2) the commissioner or person designated by the commissioner to receive such records;

(3) persons assigned by the commissioner to conduct investigations;

(4) law enforcement officers engaged in a joint investigation with the department, an assistant attorney general, or a state's attorney;

(5) other state agencies conducting related inquiries or proceedings; and

(6) probate courts involved in guardianship proceedings. The probate court shall provide a copy of the record to the respondent, the respondent's attorney, the petitioner, the guardian upon appointment, and any other individual, including the proposed guardian, determined by the court to have a strong interest in the welfare of the respondent.

(e)(1) Upon request, relevant department records created under this subchapter may be disclosed to:

(A) service providers working with a person or child who is the subject of the report; and

(B) other governmental entities for purposes of child protection.

(2) Determinations of relevancy shall be made by the department.

Sec. 17. 33 V.S.A. § 4922 is added to read:

§ 4922. RULEMAKING

(a) The commissioner shall develop rules to implement this subchapter. These shall include:

- (1) rules setting forth criteria for determining whether to conduct an assessment or an investigation;
- (2) rules setting out procedures for assessment and service delivery;
- (3) rules outlining procedures for investigations;
- (4) rules for conducting the administrative review conference;
- (5) rules regarding access to and maintenance of department records of investigations, assessments, reviews, and responses;
- (6) rules regarding the tiered registry as required by section 4916 of this title; and

(7) rules setting forth criteria for determining what substantiated behavior constitutes extraordinary circumstances for the purpose of placing the name of a person under 11 years of age on the child protection registry.

(b) The rules shall strike an appropriate balance between protecting children and respecting the rights of a parent or guardian, including a parent or guardian with disabilities, and shall recognize that persons with a disability can be successful parents. The rules shall include the possible use of adaptive equipment and supports.

(c) These rules shall be adopted no later than July 1, 2009.

Sec. 18. 33 V.S.A. § 4923 is added to read:

§ 4923. REPORTING

The commissioner shall publish an annual report regarding reports of child abuse and neglect no later than June 30, for the previous year. The report shall include:

(1) The number of reports accepted as valid allegations of child abuse or neglect.

(2) The number of reports that resulted in an investigative response; particularly:

- (A) the number of investigations which resulted in a substantiation;
- (B) the types of maltreatment substantiated;
- (C) the relationship of the perpetrator to the victim, by category; and
- (D) the gender and age group of the substantiated victims.

(3) The number of reports that resulted in an assessment response; particularly:

(A) the general types of maltreatment alleged in cases which received an assessment response; and

(B) the number of assessments that resulted in the recommendation of services.

(4) Trend information over a five-year period. Beginning with the adoption of the assessment response and continuing over the next five years, the report shall explain the impact of the assessment response on statistical reporting.

Sec. 19. EFFECTIVE DATES

(a) Sec. 3 of this act shall take effect on January 1, 2009.

(b) In Sec. 5 of this act, the amendments in 33 V.S.A. § 4915(b), (c), (d), and (e) shall take effect upon adoption of final rules by the department for children and families.

(c) Sec. 6 of this act shall take effect upon adoption of final rules by the department for children and families.

(d) Sec. 9 of this act shall take effect on September 1, 2008.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Haas of Rochester** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to.

Action on Bill Postponed

H. 709

House bill, entitled

An act relating to campgrounds;

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Wright of Burlington**, action on the bill was postponed until the next legislative day.

Joint Resolution Adopted

J.R.H. 61

Joint resolution, entitled

Joint resolution designating May 2008 as Carcinoid Cancer Awareness Month;

Was taken up and adopted on the part of the House.

Committee of Conference Appointed**H. 636**

An act relating to embezzlement by a public official;

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Flory of Pittsford
Rep. Gervais of Enosburg
Rep. Pellett of Chester

Bills Messaged to Senate Forthwith

On motion of **Rep. Adams of Hartland**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

H. 629

House bill, entitled

An act relating to an evaluation of Vermont's system of caring for mentally ill offenders;

S. 233

Senate bill, entitled

An act relating to temporary officiants for marriages and civil unions;

S. 241

Senate bill, entitled

An act relating to the special veteran and gold star registration plates;

S. 324

Senate bill, entitled

An act relating to beer and wine tastings;

S. 342

Senate bill, entitled

An act relating to Lake Champlain commemorative motor vehicle plates;

S. 344

Senate bill, entitled

An act relating to internet and mail order sales of tobacco products.

S. 365

Senate bill, entitled

An act relating to capital construction and state bonding.

Message from the Senate No. 57

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has considered bills originating in the House of the following titles:

H. 704. An act relating to notices of transfer of policies to an affiliate proved by an insurer.

H. 809. An act relating to requiring annual fire safety inspection for approved independent residential schools.

And has passed the same in concurrence.

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

H. 149. An act relating to liquor identification and tobacco licenses.

H. 257. An act relating to the codification of existing community justice centers.

H. 615. An act relating to juvenile judicial proceedings.

H. 748. An act relating to permitting students to possess and self-administer emergency medication.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted joint resolutions of the following titles:

J.R.S. 63. Joint resolution requesting the sustainable agriculture council to establish a locally grown collaborative to coordinate future policy pertaining to local food growth initiatives in Vermont.

J.R.S. 64. Joint resolution in observance of the 2008 National Crime Victims' Rights Week.

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

The Senate has considered a joint resolutions originating in the House of the following title:

J.R.H. 30. Joint resolution encouraging the inclusion of international education programs in the curriculum and extracurricular activities of Vermont's colleges and universities in order to meet the challenges of a global society.

And has adopted the same in concurrence.

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

S. 146. An act relating to advertising and producing musical performance.

And has concurred therein.

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 46. Senate concurrent resolution congratulating QNEK Productions on its 15th anniversary.

S.C.R. 47. Senate concurrent resolution congratulating Caitlin Manahan on being named the 2008 Miss Hockey.

S.C.R. 48. Senate concurrent resolution congratulating the Granite Center Garden Club on its 70th anniversary.

S.C.R. 49. Senate concurrent resolution congratulating Marlboro College on its 60th anniversary.

S.C.R. 50. Senate concurrent resolution congratulating WVMT radio's Charlie and Ernie In The Morning on the radio program's 10th anniversary.

S.C.R. 51. Senate concurrent resolution congratulating Montpelier High School principal Peter Evans on his designation as the 2008 Vermont Principal of the Year.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 269. House concurrent resolution congratulating the Mount Anthony Union High Patriots' 2008 Vermont championship wrestling team on winning a national record setting 20th consecutive state title.

H.C.R. 270. House concurrent resolution congratulating the 2008 Mount Anthony Union High School Lady Patriots Division I championship Nordic ski team.

H.C.R. 271. House concurrent resolution congratulating the Mount Anthony Union High School 2008 Lady Patriots' Division I girls' basketball championship team.

H.C.R. 272. House concurrent resolution in memory of former Bennington County Assistant Judge Ezekiel S. Cross.

H.C.R. 273. House concurrent resolution congratulating the Vermont Frost Heaves on winning the 2008 American Basketball Association championship.

H.C.R. 274. House concurrent resolution honoring Washington County Mental Health Services, Inc. on its fortieth anniversary.

H.C.R. 275. House concurrent resolution honoring retiring Weybridge town moderator Stanley James Jr.

H.C.R. 276. House concurrent resolution recognizing the lifesaving efforts of William Woolsey.

H.C.R. 277. House concurrent resolution in memory of Representative David T. Clark of St. Johnsbury

H.C.R. 278. House concurrent resolution congratulating *Vermont Woman* on winning the 2007 New England Press Association's Newspaper of the Year Award and related honors.

H.C.R. 279. House concurrent resolution honoring the 2008 FIRST Robotics Competition teams from Vermont.

Adjournment

At ten o'clock and fifty-five minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Monday, April 21, 2008, at ten o'clock in the forenoon.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 269

House concurrent resolution congratulating the Mount Anthony Union High Patriots' 2008 Vermont championship wrestling team on winning a national record-setting 20th consecutive state title

H.C.R. 270

House concurrent resolution congratulating the 2008 Mount Anthony Union High School Lady Patriots Division I championship Nordic ski team

H.C.R. 271

House concurrent resolution congratulating the Mount Anthony Union High School 2008 Lady Patriots' Division I girls' basketball championship team

H.C.R. 272

House concurrent resolution in memory of former Bennington County Assistant Judge Ezekiel S. Cross

H.C.R. 273

House concurrent resolution congratulating the Vermont Frost Heaves on winning the 2008 American Basketball Association championship

H.C.R. 274

House concurrent resolution honoring Washington County Mental Health Services, Inc. on its fortieth anniversary

H.C.R. 275

House concurrent resolution honoring retiring Weybridge town moderator Stanley James Jr.

H.C.R. 276

House concurrent resolution recognizing the lifesaving efforts of William Woolsey

H.C.R. 277

House concurrent resolution in memory of Representative David T. Clark of St. Johnsbury

H.C.R. 278

House concurrent resolution congratulating *Vermont Woman* on winning the 2007 New England Press Association's Newspaper of the Year Award and related honors

H.C.R. 279

House concurrent resolution honoring the 2008 FIRST Robotics Competition teams from Vermont

S.C.R. 45.

Senate concurrent resolution congratulating Elwin Cross on being named the 2008 Northeast Kingdom Chamber of Commerce Citizen of the Year.

S.C.R. 46.

Senate concurrent resolution congratulating ONEK Productions on its 15th anniversary.

S.C.R. 47.

Senate concurrent resolution congratulating Caitlin Manahan on being named the 2008 Miss Hockey.

S.C.R. 48.

Senate concurrent resolution congratulating the Granite Center Garden Club on its 70th anniversary.

S.C.R. 49.

Senate concurrent resolution congratulating Marlboro College on its 60th anniversary.

S.C.R. 50.

Senate concurrent resolution congratulating WVMT radio's Charlie and Ernie In The Morning on the radio program's 10th anniversary.

S.C.R. 51.

Senate concurrent resolution congratulating Montpelier High School principal Peter Evans on his designation as the 2008 Vermont Principal of the Year.

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the volume of the Public Acts and Resolves of the 2008, sixty-ninth Adjourned session]

MONDAY, APRIL 21, 2008

Rep. Klein of East Montpelier in Chair.

At ten o'clock in the forenoon the Speaker called the House to order.

Bill Referred to Committee on Ways and Means**S. 246**

Senate bill, entitled

An act relating to electronic access to criminal and family court records;

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Bills Referred to Committee on Appropriations

Senate bills of the following titles, appearing on the Calendar, carrying appropriations, under the rule, were referred to the committee on Appropriations:

Senate bill, entitled

S. 311

An act relating to the use value appraisal program.

S. 364

Senate bill, entitled

An act relating to a comprehensive vertical audit and reliability assessment of the Vermont Yankee nuclear plant.

Adjournment

At ten o'clock and five minutes in the forenoon, The Speaker adjourned the House until tomorrow at ten o'clock in the forenoon pursuant to House Rule #9.

TUESDAY, APRIL 22, 2008

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rabbi Tobie Weisman of the Jewish Learning Center, Montpelier, Vt.

Pledge of Allegiance

Page Lara Loughlin of Dorset led the House in the Pledge of Allegiance.

Message from the Senate No. 58

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has considered bills originating in the House of the following titles:

H. 170. An act relating to retirees of the University of Vermont.

H. 574. An act relating to requiring beverage container manufacturers to pay an additional one-half cent per container to retailers who do not commingle containers.

And has passed the same in concurrence.

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

H. 94. An act relating to retail sales and taxing specialty beers.

H. 290. An act relating to underground utility damage prevention system.

H. 306. An act relating to telemarketing

H. 330. An act relating to repeal of the law relating to municipal trailer park ordinances.

H. 617. An act relating to guardianship.

H. 711. An act relating to agricultural, forestry and horticultural education.

H. 777. An act relating to the certificate of need program.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposals of amendment to Senate bills of the following titles:

S. 232. An act relating to mobile polling stations.

S. 291. An act relating to the farm agronomic practices program at the Agency of Agriculture, Food and Markets.

And has concurred therein.

The Senate has considered House proposals of amendment to Senate bills of the following titles:

S. 240. An act relating to repealing the sunset of the law enforcement exemption to the social security breach notice act.

S. 290. An act relating to agricultural water quality financing.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill entitled:

S. 365. An act relating to capital construction and state bonding.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Scott
Senator Mazza
Senator Campbell

Committee of Conference Appointed**H. 635**

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on House bill, entitled

An act relating to reports of child abuse or neglect;

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Pugh of South Burlington

Rep. McAllister of Highgate

Rep. Fisher of Lincoln

Bills Referred to Committee on Ways and Means

Senate bills of the following titles, appearing on the Calendar, affecting the revenue of the state, under the rule, were referred to the Committee on Ways and Means:

S. 297

Senate bill, entitled

An act relating to clarifying the definition of "Stiff Hitch" in the motor vehicle statutes;

S. 350

Senate bill, entitled

An act relating to energy independence and economic prosperity.

Joint Resolution Referred to Committee**J.R.H. 63**

Rep. Obuchowski of Rockingham offered a joint resolution, entitled

Joint resolution relating to imminent conversion to digital television and consumers' costs and knowledge;

Whereas, television transmission in the United States was established in an analog format, and television sets were designed to receive the analog signal, and

Whereas, although the analog transmission system has improved over the decades with the introduction of color television and larger screens, it remains limited in its capacity to transmit a higher quality signal, and

Whereas, technological advances in recent years have resulted in the development of a far more advanced television transmission system known as digital television that enables a television station to transmit either a single high definition signal with audio quality approximating that of a CD and extremely sharp video or several simultaneous standard digital signals that are still technically superior to an analog signal, and

Whereas, digital television uses a different segment of the broadcast spectrum than traditional analog television, and the Federal Communications Commission has assigned new channels for all television stations to broadcast in the digital format, and

Whereas, during the current transitional period, television stations have been transmitting signals in both the digital and analog format, but Congress has enacted legislation terminating analog transmissions effective February 17, 2009, and

Whereas, individuals who own the newer television sets designed to receive the digital channel or who are reliant on satellite reception or a digital cable subscription can continue to receive the signal after the conversion date in February 2009, and

Whereas, the millions of consumers who have not purchased a new digital television and are dependent on the traditional signal for reception, and possibly those persons with an analog cable subscription, will require a separate converter box to receive the digital signal, and

Whereas, Congress realized that converter boxes could pose a major expense for many consumers, especially if they own more than one television, and federal legislation established a converter box coupon program under the auspices of the National Telecommunications and Information Administration, and

Whereas, each household is entitled to two coupons that enables the consumer to receive a \$40.00 discount on the price of a single converter box, and

Whereas, although this program does provide some financial assistance to consumers wishing to purchase the new converter boxes, the boxes will continue to remain costly and pose a major economic strain for many consumers, and

Whereas, according to an April 8, 2008, U.S. Senate Committee on Commerce, Science, and Transportation press release, 73 percent of the U.S. population is unaware of the coupon program and 74 percent do not recognize the impact the conversion will have on their television reception, and

Whereas, Congress has imposed this technologically beneficial but individually expensive change on the American people's primary source of information and entertainment while auctioning off the analog spectrum to the highest corporate bidders for new telecommunications uses, and it is only fair that the converter boxes (with a reasonable limit per household) be made available at no charge to the consumer, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to amend the digital converter box coupon program to remove the consumer cost, to require that analog cable subscribers are not required to pay a surcharge for any necessary technical modifications in the cable transmission, and to better publicize both the program and the impact of the imminent digital television conversion on consumers, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the cable television providers in Vermont, to U.S. Representative Edward Markey, chair of the U.S. House Subcommittee on Telecommunications and the Internet, to U.S. Senator Daniel Inouye, chair of the U.S. Senate Committee on Commerce, Science and Transportation, and to the Vermont congressional delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Commerce.

Joint Resolution Referred to Committee

J.R.S. 63

The Speaker placed before the House a joint resolution, entitled

Joint resolution requesting the sustainable agriculture council to establish a locally grown collaborative to coordinate future policy pertaining to local good growth initiatives in Vermont;

By the Committee on Agriculture,

Whereas, the General Assembly has recognized the importance and benefits of sustainable agriculture for both economic and ecological purposes, and

Whereas, in order to promote sustainable agriculture in the state, the General Assembly has established, pursuant to 6 V.S.A. § 4701(b), a Vermont sustainable agriculture council (the council) with the purposes of facilitating and disseminating research, and promoting the integration of sustainable agriculture practices into farming operations, and

Whereas, the council has recognized that locally grown farm products are integral to the development of sustainable agriculture in Vermont, and it has established a 2008 goal to "increase the direct sale of local farm products by 50% and to increase storage and processing capacity of locally grown farm products by 20% above current levels by 2012," and

Whereas, although many initiatives in Vermont focus on growing local food products, there is at best only minimal coordination of these activities, and, as separate projects, their overall impact on sustainable agricultural policies and practices in the state cannot be maximized, and

Whereas, improving the communication and coordination among individuals and organizations responsible for and benefiting from locally grown initiatives is in the interest of producers and consumers alike, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly requests that the Vermont sustainable agriculture council establish a locally grown collaborative consisting of individuals and organizations including farmers, nonprofit agricultural organizations, food processors and distributors, academic specialists in the field of agriculture, and consumers interested in Vermont food products, *and be it further*

Resolved: That the General Assembly further requests that the council direct the collaborative to provide recommendations on future policy pertaining to local food growth initiatives, *and be it further*

Resolved: That the council is requested to direct the collaborative to submit a report of its recommendations on or before December 1, 2008, to the council for its review and inclusion as part of the council's annual report due by January 15, 2009, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont sustainable agriculture council.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the Committee on Agriculture.

Joint Resolution Placed on Calendar

The Speaker placed before the House the following resolution which was read and in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

J.R.S. 64

By Senators Campbell and Sears,

Joint resolution in observance of the 2008 National Crime Victims' Rights Week.

Whereas, 2008 marks the 17th annual Vermont commemoration of National Crime Victims' Rights Week, and

Whereas, all crime victims suffer violation of their persons, property and trust, and over 64,000 crimes were reported to have occurred in Vermont in 2006, and

Whereas, policymakers in Vermont have recognized and embraced the need to empower crime victims and seek to make victims the center of state policy in our criminal and juvenile justice systems, and

Whereas, members of the general public, both in their professional roles as clergy, educators, employers, medical professionals and public servants, and as volunteer community members, work to support and help crime victims and survivors in their recovery, and

Whereas, within Vermont, important public and private partnerships have been forged among criminal and juvenile justice agencies, allied professionals and social service providers to ensure that crime victims are treated with the dignity and respect they deserve, and

Whereas, the victims' rights movement in Vermont has expanded community-based efforts to build community while helping victims and survivors rebuild their lives, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly recognizes the courage and selflessness of members of the Vermont Victim/Survivor of Crime Council who have turned personal tragedy into a motivating force to improve the rights and treatment of other victims of crime and build a better, more just community in Vermont and the nation, *and be it further*

Resolved: That the General Assembly recognizes the importance of ensuring that crime victims are afforded the greatest possible right to participate in the criminal justice process and encourages efforts to achieve this important goal, both during National Crime Victims' Rights Week, which will be observed April 13–19, 2008, and throughout the year, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Judy Rex, executive director of the state of Vermont center for crime victim services in Waterbury.

**Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested**

H. 709

The Senate proposed to the House to amend House bill, entitled

An act relating to campgrounds;

by adding a new Sec. 3 to read as follows:

Sec. 3. Chapter 138. Campgrounds is added to Title 9, to read as follows:

Chapter 138. CAMPGROUNDS

§4470. CAMPGROUNDS; REMOVAL

(a) Definition. A recreational campground or camping park is property where transient residence is offered or provided for seasonal or short-term vacation or recreational purposes on which may be located cabins, tents, or lean-tos or campsites designed for temporary set-up of portable or mobile camping, recreational, or travel dwelling units including tents, campers, and recreational vehicles such as motor homes, travel trailers, truck campers, and van campers.

(b) An owner, operator, or agent of a recreational campground or camping park may remove or cause to be removed from a recreational campground or camping park any person who does any of the following:

(1) refuses to pay registration or fees;

(2) denies others the right to quiet enjoyment of the use of the recreational campground or camping park;

(3) violates any municipal or state law; or

(4) violates the published or posted rules of the recreational campground or camping park.

(c) A person who refuses to immediately leave the property after he or she has been told to do so by the owner, operator, or agent shall be in violation of 13 V.S.A. §3705(a) and may be prosecuted for unlawful trespass. If any conduct involves the use of a motor vehicle, the person may be prosecuted for any applicable violation of Title 23. For the purposes of this section, the property on which a campground or camp park is located shall be considered open to the free flow and circulation of traffic. The person may be removed

from the premises by a law enforcement officer on request of the owner, operator, or agent.

(d) The owner, operator, or agent shall employ reasonable means to protect any personal property left at a campground or camping park by a person who has left or has been removed. A reasonable storage fee which is published or posted may be charged for any personal property left at the campground or camping park. If the owner does not take possession of the personal property within six months of the date the property has been left at the campground, the owner, operator or agent may dispose of it in a commercial reasonable manner and then pay to the owner the sale proceeds less any storage and sales fees incurred.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Wright of Burlington** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to.

Third Reading; Bills Passed in Concurrence With Proposals of Amendment

Senate bills of the following titles were taken up, read the third time and passed in concurrence with proposals of amendment

S. 226

Senate bill, entitled

An act relating to requiring the installation of photoelectric only smoke alarms;

S. 271

Senate bill, entitled

An act relating to child support for children with disabilities;

S. 301

Senate bill, entitled

An act relating to enhancing the penalties for assaulting a law enforcement officer and to the crime of assault with bodily fluids;

Bill Amended; Third Reading Ordered

H. 892

Rep. Manwaring of Wilmington, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the village of Enosburg Falls;

Reported in favor of its passage when amended as follows:

By adding a new Sec. 13a to read:

Sec. 13a. STATUTORY REVISION AUTHORITY

The legislative council, pursuant to section 424 of Title 2, is directed to change the spelling of the name of the town of Enosburg to Enosburgh wherever it appears in the Vermont Statutes Annotated, including chapters 115 and 219 of the Title 24 Appendix.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 893

Rep. Devereux of Mount Holly, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the city of Rutland;

Reported in favor of its passage when amended as follows:

First: By adding a Sec. 3a as follows:

Sec. 3a. 24 V.S.A. App. chapter 9, § 34.1 is amended to read:

§ 34.1. APPROPRIATIONS AND EXPENDITURES

~~The board of school commissioners~~ voters of the city shall ~~appropriate such sums necessary annually approve a budget~~ for the use of the schools pursuant to the general laws of the State of Vermont. The board of school commissioners shall not expend any money or incur any debt for any purpose by contract or otherwise beyond the amount of ~~the appropriation made pursuant to the general laws of the State of Vermont approved in the budget.~~ the provisions of section 17.4 of this charter shall apply to the board of school commissioners and any committee or member thereof. Accounts relating to federal and state funds shall be maintained as directed and regulated by state and federal authorized guidelines and shall be subject to audit by the city treasurer.

Second: In Sec. 4, 24 V.S.A. App. chapter 9, § 34.2, by striking subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) as follows:

(a) ~~The Rutland City voters authorize the Rutland School commissioners to adopt annual general fund budgets without further voter approval, provided that the actual homestead tax rate in a year does not exceed \$0.50 more than the adjusted equalized homestead rate as established by state officials pursuant~~

~~to applicable law.~~ The voters of the city shall annually approve a budget for the use of Rutland city schools pursuant to the general laws of the state of Vermont.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 107

Rep. Minter of Waterbury, for the committee on Transportation, to which had been referred Senate bill, entitled

An act relating to mapping class four town highways and trails and mass discontinuances of unmapped town highways;

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 19 V.S.A. § 302(a)(6)(A) is amended to read:

(A) Unidentified corridors are town highways that:

(i) have been laid out as highways by proper authority through the process provided by law at the time they were created or by dedication and acceptance; and

(ii) do not, as of July 1, ~~2009~~ 2010, appear on the town highway map prepared pursuant to section 305 of this title; and

(iii) are not otherwise clearly observable by physical evidence of their use as a highway or trail; and

(iv) are not legal trails.

Sec. 2. 19 V.S.A. § 305(h) is amended to read:

(h) Notwithstanding the provisions of subchapter 7 of chapter 7 of this title, on or before July 1, ~~2009~~ 2010, a municipality's legislative body may vote to discontinue all town highways that are not included as such on the sworn certificate of the description and measurement of town highways filed with the town clerk on February 10 of that year pursuant to subsection (b) of this section. For the purposes of this section, a town highway shall be deemed to be included on the sworn certificate of the description and measurement of town highways if:

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 201

Rep. McDonald of Berlin, for the committee on Government Operations, to which had been referred Senate bill, entitled

An act relating to state employee whistleblower protection;

Reported in favor of its passage in concurrence with proposal of amendment as follows:

First: In Sec. 1, 3 V.S.A. § 972(4), after "promotion," and before "or involuntary transfer" by inserting "imposition of a performance warning period."

Second: In Sec. 1, 3 V.S.A. § 975(b), in the first sentence, by striking "raises" and inserting in lieu thereof "files", and by striking "under a grievance procedure or similar process available to the employee" and inserting in lieu thereof "with the Vermont labor relations board"

Third: In Sec. 1, 3 V.S.A. § 975(b), by striking the second sentence in its entirety

Fourth: In Sec. 1, 3 V.S.A. § 975(c), by striking "raises" and inserting in lieu thereof "files"

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 322

Rep. Bray of New Haven, for the committee on Agriculture, to which had been referred Senate bill, entitled

An act relating to the Vermont Dairy Promotion Council;

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND INTENT

(a) The general assembly finds:

(1) A viable agricultural sector in Vermont represents part of a secure regional food supply, which leads to energy and economic efficiencies.

(2) The general public is increasingly interested in locally produced food.

(3) Livestock raised on-farm for meat offers profit potential and economic opportunity for Vermont producers.

(4) Meat from livestock raised on Vermont farms has an excellent reputation for quality and flavor.

(5) In recent years, there has been increasing interest in the on-farm slaughter of animals for use by households for economic, ethnic, and humane reasons.

(6) There are limited options for livestock slaughter in Vermont.

(7) Historically, meat raised on Vermont farms has been safe and healthy; Vermont's slaughtering and processing practices have excellent safety records.

(8) The sustainability of Vermont's local food systems depends on the relationship between the producer and the consumer. Key aspects of such successful relationships include the producer's integrity and the consumer's interest in and knowledge of how the food is raised, harvested, and processed.

(9) Community-supported agriculture programs can serve as models for meat producers interested in marketing directly to consumers.

(10) Raising meat, fruits, and vegetables as close as possible to the kitchens of the end-user minimizes the carbon footprint of the entire food system.

(11) The dairy promotion council should be required to report annually to the legislature, as well as the governor, on its activities, the amount of money received, and the expenditures thereof.

(b) It is therefore the intent of the general assembly in enacting this legislation to:

(1) Assure the continuance of a safe, local food supply.

(2) Maintain the Vermont meat inspection service's "at least equal to" status with the federal government's USDA food safety inspection service.

(3) Provide for collective ownership of animals raised and slaughtered on Vermont farms where the meat is distributed only to the owners.

(4) Better understand the rules for building approved slaughter and processing facilities in Vermont and compare Vermont's meat inspection regulations to other states.

(5) Determine ways to build cost-effective slaughter and processing facilities and the feasibility of cooperative ownership.

(6) Promote and encourage growth in Vermont's livestock industry and the production of meat for local consumption by allowing for more on-farm slaughter and processing of livestock, creating opportunity for the development of more commercial slaughter and processing facilities, and by supporting those currently in the industry.

(7) Provide more opportunities for Vermont livestock farmers and the supporting slaughter and processing industry to meet the growing demand for animals to be slaughtered and processed by ethnic and religious groups in accordance with their practices and beliefs.

* * * Dairy Promotion Council * * *

Sec. 2. 6 V.S.A. § 2972(b) is amended to read:

(b) Included among the powers of the council in connection with the enforcement of this chapter are the powers to require reports from any person subject to this chapter; to adopt, rescind, modify, and amend all proper and necessary rules, regulations and orders to administer this chapter, which rules, regulations and orders shall be promulgated by publication in the manner prescribed therefor by the council and shall have the force and effect of law when not inconsistent with existing laws; to administer oaths, subpoena witnesses, take depositions, and certify to official acts; to require any dealer to keep such true and accurate records and to make such reports covering purchases, sales, and receipts of dairy products and related matters as the council deems reasonably necessary for effective administration, which records shall be open to inspection by the secretary of agriculture, food and markets at any reasonable time and as often as may be necessary, but information thus obtained shall not be published or be open to public inspection in any manner revealing any individual dealer's identity, except as required in proceedings to enforce compliance; to keep accurate books, records, and accounts of all of its dealings, and to make annually a full report of its doings to the house and senate committees on agriculture and the governor, which shall show the amount of money received and the expenditures thereof. The report shall be submitted annually on or before January 15. The Vermont agency of agriculture, food and markets shall perform the administrative work of the council as directed by the council. The council shall reimburse the agency of agriculture, food and markets for the cost of services performed by the agency.

Sec. 3. LIVESTOCK STUDY

The legislative council shall consult with local producers, the Vermont congressional delegation, the agency of agriculture, food and markets, and the department of education and develop proposals for a Vermont locally produced meat-in-schools program. The goals shall be to use existing resources to procure locally produced food products processed in Vermont and inspected by the Vermont agency of agriculture, food and markets to bolster the safety of the food in schools while supporting the Vermont agricultural industry.

Sec. 4. AGENCY OF AGRICULTURE, FOOD AND MARKETS; SLAUGHTER ON PREMISES STUDY

In consultation with interested parties the agency of agriculture, food and markets shall study and recommend actions to meet the objectives set forth in Sec. 1(b) of this act. The results of such study and any actions recommended shall be included in a report to the house and senate committees on agriculture on or before January 15, 2009.

Sec. 5. 6 V.S.A. § 3306(f) is amended to read:

(f) Itinerant custom slaughterers, who slaughter solely at a person's home or farm and who do not own, operate or work at a slaughtering plant shall be exempt from the licensing provisions of this section. An itinerant custom slaughterer may slaughter livestock owned by an individual who has entered into a contract with a person to raise the livestock on the farm where it is intended to be slaughtered.

Sec. 6. 9 V.S.A. § 2465a is added to read:

§ 2465a. DEFINITION OF LOCAL AND LOCALLY GROWN

For the purposes of this chapter and rules adopted pursuant to subsection 2453(c) of this chapter, "local," "locally grown," and any substantially similar term shall mean that the goods being advertised originated within Vermont or 30 miles of the place where they are sold, measured directly, point to point, except that the term "local" may be used in conjunction with a specific geographic location, such as "local to New England," or a specific mile radius, such as "local-within 100 miles," as long as the specific geographic location or mile radius appears as prominently as the term "local," and the representation of origin is accurate.

Sec. 7. EFFECTIVE DATE

This act shall take effect upon passage, except Sec. 5 which shall take effect April 15, 2009.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 372

Rep. Head of South Burlington, for the committee on General, Housing and Military Affairs, to which had been referred Senate bill, entitled

An act relating to evictions, unpaid rent and abandoned property in rental property;

Reported in favor of its passage in concurrence with proposal of amendment as follows:

First: In Sec. 5. 9 V.S.A. § 4467 by striking subsection (a) and inserting in lieu thereof the following:

(a) Termination for nonpayment of rent. ~~Termination for nonpayment of rent.~~ The landlord may terminate a tenancy for nonpayment of rent by providing actual notice to the tenant of the date on which the tenancy will terminate which shall be at least 14 days after the date of the actual notice. The rental agreement shall not terminate if the tenant pays or tenders all ~~arrears~~ prior to the termination date. ~~A tenant may not defeat a notice to terminate by payment of arrears more than three times in 12 months.~~ rent due through the end of the rental period in which payment is made or tendered. A defendant may not defeat an ejectment action based on nonpayment of rent if the landlord has sent a termination notice based on nonpayment of rent more than three times in 12 months, provided the landlord has sent actual notice no earlier than seven calendar days from the date the rent is due for each notice under this section. Acceptance of partial payment of rent shall not constitute a waiver of the landlord's remedies to commence or continue an ejectment action pursuant to chapter 169 of Title 12 for nonpayment of rent.

Second: In Sec. 5. 9 V.S.A. § 4467 by striking subsection (e) and inserting in lieu thereof the following:

(e) Termination by landlord for no cause under terms of written rental agreement. ~~If the landlord terminates a tenancy in accordance with the terms of there is a written rental agreement, the notice to terminate for no cause shall be at least 30 days before the end or expiration of the stated term of the rental agreement, if rent is payable on a monthly basis and the tenancy has continued for two years or less. The notice to terminate for no cause shall be at least 60 days the rent is paid on a monthly basis and before the end or expiration of the~~

term of the rental agreement if the tenancy has continued for more than two years. ~~The~~ If there is a written week-to-week rental agreement, the notice to terminate for no cause shall be at least seven days, if rent is payable on a weekly basis; however, a notice to terminate for nonpayment of rent shall be as provided in subsection (a) of this section.

Third: By adding two new Secs., Sec. 10 and Sec. 11, to read as follows:

Sec. 10. 20 V.S.A. Part 7A, chapter 181 is added to read:

CHAPTER 181. RENTAL HOUSING SAFETY AND HABITABILITY

§ 3201. LEGISLATIVE PURPOSE AND INTENT

It is the intent of the general assembly to provide for rental housing safety and habitability and to establish a statewide rental housing inspection program and registry to achieve all the following goals:

- (1) Promote the health and safety of the citizens of Vermont.
- (2) Facilitate compliance with existing health and safety standards.
- (3) Provide support to municipal health officers.
- (4) Create a resource for tenants and landlords.
- (5) Enable communities to focus on problem properties.
- (6) Encourage a private sector response to a public health and safety need.
- (7) Reduce fire fatalities.

§ 3202. SAFE RENTAL HOUSING TASK FORCE

(a) A safe rental housing task force is created to consist of the following 12 members:

- (1) The director of the division of fire safety or designee.
- (2) The commissioner of the department of health or designee.
- (3) The commissioner of the department of housing and community affairs or designee.
- (4) The attorney general or designee.
- (5) The executive director of the Vermont housing finance agency or designee.
- (6) A representative of commercial landlords.
- (7) A representative of nonprofit landlords.

(8) A tenant representative.

(9) A municipal inspection program representative.

(10) A town health officer from a municipality without an exempt program.

(11) A regional revolving loan fund representative.

(12) An architect.

(b) The speaker of the house and the senate president pro tempore shall appoint members of the task force that are not ex-officio and shall designate a chair.

(c) Before January 15, 2009, the task force shall:

(1) Identify information to be gathered for the rental housing registry, develop a questionnaire for rental unit sites and coordinate with existing data collected by the department of health, the department of taxes, the department of housing and community affairs, and the department of public service.

(2) Develop a simplified rental housing code, to include lead safety, habitability, and basic life safety standards.

(3) Establish a priority for inspections based on factors including: the age of the rental unit, a score of the rental units' self-assessment, and complaints from rental units at the address.

(4) Develop procedures for scheduled, complaint-based, emergency and time-of-sale inspections, including a time frame and a priority for scheduled inspections.

(5) Develop standards for licensed rental housing inspectors to include:

(A) Training standards.

(B) A code of professional ethics.

(C) Curriculum outlines and a delivery mechanism.

(6) Recommend a fee structure necessary and appropriate to implement the inspection program and registry.

(7) Establish a procedure for issuing a certificate of habitability.

(8) Develop procedures to assure enforcement and compliance.

(9) Make recommendations regarding the role of town health officers in regard to safe rental housing in municipalities without an exempt program.

(10) Develop training and education resources for landlords and tenants, including all the following:

(A) A rental housing code self-assessment checklist.

(B) A one-stop shopping resource for rental unit owners and managers that provides:

(i) Lead safety, minimum housing habitability, and basic life safety standards available from one site.

(ii) Coordinated training across disciplines for owners and managers of rental housing units.

(11) Recommend incentives and develop a process for nonexempt municipalities to establish an inspection program.

(12) Establish an implementation schedule, to begin July 1, 2009, that includes all the following:

(A) Training of inspectors and certification by the department of public safety.

(B) Collection of rental housing information for the registry.

(C) Collection of fees.

(D) Commencement of inspections beginning January 1, 2010.

(13) Recommend staffing levels necessary to establish and maintain the program and provide for enforcement.

(14) Recommend an appropriation sufficient to fund the certification program, licensing, complaint-driven inspections, enforcement, and the registry.

(15) Develop a system for coordinating appropriate displacement services.

(16) Develop a program and identify resources for repair and improvement.

(d) The task force shall submit a written report on its progress on or before January 15 of each year to the house committee on general, housing and military affairs and the senate committee on economic development, housing and general affairs.

§ 3203. RENTAL HOUSING SAFETY AND HABITABILITY FUND;
ESTABLISHED

(a) A rental housing safety and habitability fund is established in the state treasury for the purpose of creating a statewide rental housing inspection program to be administered by the department of public safety for the purposes of collecting and maintaining data about rental housing units in Vermont and providing education, training, and support to landlords and tenants to assure that the safety and habitability of rental housing are maintained for the benefit of owners, tenants, and communities. The fund shall provide financing for scheduled, complaint-based, and emergency inspections of rental housing units, the enforcement of orders issued in conjunction with inspections, and enhancing communications among owners, tenants, and compliance personnel.

(b) Proceeds from fees, grants, donations, contributions, and other sources of revenue that may be provided by statute or by rule may be deposited in the fund. Interest earned on the fund and any balances remaining at the end of a fiscal year shall be retained in the fund.

§ 3204. RENTAL HOUSING REGISTRY

The department of public safety in association with the Vermont housing finance agency, the department of health, and the department of housing and community affairs shall manage a database set up by a private contractor to include all rental housing, including rented single-family homes and rental units in owner-occupied multi-family buildings of two or more rental units and excluding vacation homes.

§ 3205. RENTAL HOUSING SAFETY INSPECTOR LICENSING
PROGRAM

The department of public safety shall establish and manage a licensing program for rental housing safety inspectors to begin by July 1, 2009.

§ 3206. RENTAL HOUSING HEALTH AND SAFETY STANDARDS

The department of public safety shall adopt minimum standards that apply to existing rental housing. The standards shall include life safety, electrical, plumbing, and boiler codes, the rental housing health code, and lead paint requirements.

§ 3207. RENTAL HOUSING SAFETY INSPECTION PROGRAM

The department of public safety shall establish a cyclical and point-of-sale rental housing safety inspection program beginning January 1, 2010.

(1) Regular inspections shall be carried out by a licensed rental housing safety inspector under contract with the unit owner to assure units meet the rental housing health and safety standards.

(2) Complaint-driven inspections shall be carried out by a licensed rental housing safety inspector under contract with the state or the municipality.

§ 3208. RULES

The department of public safety shall adopt rules to implement the recommendations of the safe rental housing task force to carry out the purposes of this chapter. The department shall propose such rules no later than January 15, 2009.

§ 3209. EXEMPTIONS

Rental housing units subject to the jurisdiction of municipal housing programs organized pursuant to 24 V.S.A. chapter 123 are exempt from the provisions of this chapter. This chapter shall not be interpreted to limit or decrease the authority of the exempt municipal housing program in regard to building, housing, and fire safety codes. A municipal program may lose this exemption if the commissioner of public safety determines that any of the following is true:

(1) The habitability and enforcement criteria, including standards for issuing certificates of habitability, are less stringent than those of the state program.

(2) Regularly scheduled inspections of the municipal program are less frequent than those of the state program.

(3) The municipal program permits rental of units that lack a current certificate of habitability.

(4) Any other aspect of the municipal program is less stringent than the state program.

Sec. 11. APPROPRIATION

In fiscal year 2009, there is appropriated from the general fund to the department of public safety the amount of \$30,000.00 to be used by the department for the purpose of retaining a consultant to assist the safe rental housing task force in carrying out its duties under chapter 181 of Title 20.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Rep. Larrabee of Danville asked that the question be divided and the first and second instances of amendment be taken up first.

Thereupon, the recommendation of proposal of amendment in the first and second instances were agreed to.

Rep. Komline of Dorset raised a Point of Order that the third instance of proposal of amendment is in violation of House Rule 77 in that final action on the issue was taken when the House passed H. 863, which Point of Order the Speaker ruled not well taken in that the third recommendation of proposal of amendment is a part of H. 863 which contained many other sections.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on General, Housing and Military Affairs in the third instance? **Rep. Donahue of Northfield** moved to commit the bill to the committee on Appropriations, which was disagreed to on a Division vote. Yeas, 35. Nays, 49.

Rep. Deen of Westminster in Chair.

Thereupon, **Rep. Koch of Barre Town** raised a Point of Order that the third proposal of amendment of the committee on General, Housing and Military Affairs was not germane to the bill in that the proposal of amendment deals with a registry of rental property and the bill deals with rights of the tenant and eviction procedures, which Point of Order the Speaker ruled not well taken in that both the proposal of amendment and the bill deal with rental properties.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on General, Housing and Military Affairs in the third instance? **Rep. Komline of Dorset** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on General, Housing and Military Affairs in the third instance? was decided in the affirmative. Yeas, 75. Nays, 59.

Those who voted in the affirmative are:

Ancl of Calais
Anderson of Montpelier
Andrews of Rutland City
Aswad of Burlington
Atkins of Winooski
Bissonnette of Winooski
Botzow of Pownal
Bray of New Haven
Browning of Arlington
Chen of Mendon

Cheney of Norwich
Clarkson of Woodstock
Copeland-Hanzas of
Bradford
Courcelle of Rutland City
Davis of Washington
Donovan of Burlington
Edwards of Brattleboro
Emmons of Springfield
Fisher of Lincoln

Frank of Underhill
French of Randolph
Gervais of Enosburg
Gilbert of Fairfax
Grad of Moretown
Haas of Rochester
Head of S. Burlington
Heath of Westford
Hosford of Waitsfield
Howard of Rutland City

Hunt of Essex	Marek of Newfane	Partridge of Windham
Hutchinson of Randolph	Martin, C. of Springfield	Pearson of Burlington
Jerman of Essex	Masland of Thetford	Pellet of Chester
Jewett of Ripton	McCormack of Rutland City	Perry of Richford
Keenan of St. Albans City	McCullough of Williston	Peterson of Williston
Keogh of Burlington	Milkey of Brattleboro	Pugh of S. Burlington
Kitzmiller of Montpelier	Miller of Shaftsbury	Randall of Troy
Klein of East Montpelier	Minter of Waterbury	Shand of Weathersfield
Larson of Burlington	Mitchell of Barnard	Sharpe of Bristol
Lenes of Shelburne	Moran of Wardsboro	Smith of Morristown
Leriche of Hardwick	Mrowicki of Putney	Sweaney of Windsor
Lippert of Hinesburg	Nease of Johnson	Trombley of Grand Isle
Lorber of Burlington	Nuovo of Middlebury	Zenie of Colchester
Maier of Middlebury	Obuchowski of Rockingham	Zuckerman of Burlington
Malcolm of Pawlet	Ojibway of Hartford	
Manwaring of Wilmington	Orr of Charlotte	

Those who voted in the negative are:

Acinapura of Brandon	Fitzgerald of St. Albans City	McFaun of Barre Town
Ainsworth of Royalton	Flory of Pittsford	McNeil of Rutland Town
Allard of St. Albans Town	Grenier of St. Johnsbury	Monti of Barre City
Baker of West Rutland	Helm of Castleton	Mook of Bennington
Barnard of Richmond	Hube of Londonderry	Morrissey of Bennington
Bostic of St. Johnsbury	Johnson of South Hero	Myers of Essex
Branagan of Georgia	Johnson of Canaan	O'Donnell of Vernon
Brennan of Colchester	Koch of Barre Town	Otterman of Topsham
Canfield of Fair Haven	Komline of Dorset	Oxholm of Vergennes
Clark of Vergennes	Krawczyk of Bennington	Peaslee of Guildhall
Clerkin of Hartford	Larocque of Barnet	Potter of Clarendon
Condon of Colchester	Larrabee of Danville	Rodgers of Glover
Corcoran of Bennington	LaVoie of Swanton	Scheuermann of Stowe
Crawford of Burke	Lawrence of Lyndon	Turner of Milton
Devereux of Mount Holly	Lewis of Derby	Valliere of Barre City
Donaghy of Poultney	Livingston of Manchester	Westman of Cambridge
Donahue of Northfield	Marcotte of Coventry	Wheeler of Derby
Errecart of Shelburne	Martin of Wolcott	Winters of Williamstown
Evans of Essex	McAllister of Highgate	Wright of Burlington
Fallar of Tinmouth	McDonald of Berlin	

Those members absent with leave of the House and not voting are:

Adams of Hartland	Howrigan of Fairfield	Pillsbury of Brattleboro
Audette of S. Burlington	Kilmartin of Newport City	Spengler of Colchester
Consejo of Sheldon	Kupersmith of S. Burlington	Stevens of Shoreham
Dostis of Waterbury	Morley of Barton	Symington of Jericho
Godin of Milton	Peltz of Woodbury	Weston of Burlington

Rep. Wright of Burlington explained his vote as follows:

"Madam Speaker:

I vote no with mixed emotions. While safety is an issue of paramount importance, the division of fire safety opposes the way this is proposed to be implemented. I also fear that adding this amendment will imperil the passage of S. 372."

Pending the question, Shall the bill be read a third time? **Rep. Jewett of Ripton** moved to propose to the Senate to amend the bill as follows:

First: By striking Sec. 1 and inserting in lieu thereof the following:
Sec. 1. 9 V.S.A. § 4451(1) is amended to read:

(1) "Actual notice" means receipt of written notice hand-delivered or mailed to the last known address. A rebuttable presumption that the notice was received three days after mailing is created if the sending party proves that the notice was sent by first class or certified United States mail.

Second: In Sec. 2 9 V.S.A. § 4461 in subsection (c) by striking the first two sentences and inserting in lieu thereof the following:

A landlord shall return the security deposit along with a written statement itemizing any deductions to a tenant within 14 days from the date on which the landlord discovers that the tenant vacated or abandoned the dwelling unit, with a written statement itemizing any deductions or the date the tenant vacated the dwelling unit, provided the landlord received notice from the tenant of that date.

Third: In Sec. 4, 9 V.S.A. §4465(c) by striking the words "it may be presumed" and inserting in lieu thereof the words "there is a rebuttable presumption"

Fourth: In Sec. 5, 9 V.S.A. § 4467 by striking subsection (a) and inserting in lieu thereof the following:

(a) Termination for nonpayment of rent. ~~Termination for nonpayment of rent.~~ The landlord may terminate a tenancy for nonpayment of rent by providing actual notice to the tenant of the date on which the tenancy will terminate which shall be at least 14 days after the date of the actual notice. The rental agreement shall not terminate if the tenant pays or tenders all arrearages ~~prior to the termination date. A tenant may not defeat a notice to terminate by payment of arrearages more than three times in 12 months~~ rent due through the end of the rental period in which payment is made or tendered. Acceptance of partial payment of rent shall not constitute a waiver of the landlord's remedies for nonpayment of rent.

Fifth: In Sec. 5, 9 V.S.A. §4467(b), by striking subdivision (2) and inserting in lieu thereof the following:

(2) When termination is based on criminal activity, illegal drug activity, or acts of violence any of which threaten the health or safety of other residents, the landlord may terminate the tenancy by providing actual notice to the tenant of the date on which the tenancy will terminate which shall be at least 15 days from the date of the actual notice.

Sixth: In Sec. 5, 9 V.S.A. §4467, in subsection (i) by striking the first complete sentence and inserting in lieu thereof the following;

All actual notices that are in compliance with this section shall not invalidate any other actual notice and shall be a valid basis for commencing and maintaining an action for possession pursuant to this chapter, chapter 153 of Title 10, chapter 14 of Title 11, or chapter 169 of Title 12, notwithstanding that the notices may be based on different or unrelated grounds, dates of termination, or that the notices are sent at different times prior to or during an ejectment action.

Seventh: In Sec. 5, by adding a new subsection (k) to read as follows:

(k) A notice to terminate a tenancy shall be insufficient to support a judgment of eviction unless the proceeding is commenced no later than 60 days from the termination date set forth in the notice.

Eighth: In Sec. 7, 12 V.S.A. §4773 by striking the final sentence and inserting in lieu thereof the following: "A defendant may not defeat an ejectment action by payment of all rent in arrears, interest, and court costs more than one time in 12 months. The 12-month period shall begin on the day the payment is made."

Ninth: In Sec. 8, 12 V.S.A. § 4853a(b), before the final period by adding the words "but shall cease upon execution of a writ of possession"

Which was agreed to and third reading of the bill was ordered.

Recess

At twelve o'clock and forty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At three o'clock and ten minutes in the afternoon, the Speaker called the House to order.

Joint resolution Amended; Third Reading Ordered

J.R.H. 59

Rep. Clark of Vergennes, for the committee on Education, to which had been referred Joint resolution, entitled

Joint resolution urging secondary school and post secondary educators and administrators to collaborate on accelerated learning opportunities for Vermont high school students;

Reported in favor of its passage when amended as follows:

By striking the phrase "the UVM administration is" and inserting in lieu thereof "the Vermont State Colleges and the UVM administration are"

The resolution, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Education agreed to and third reading ordered.

Joint Resolution Adopted

J.R.H. 62

Joint resolution, entitled

Joint resolution commemorating the observance of 2008 Equal Pay Day;

Was taken up and adopted on the part of the House.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 171

Rep. Flory of Pittsford, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to discharge of a mortgage by an attorney;

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 27 V.S.A. § 470 is added to read:

§ 470. VALIDATION OF MORTGAGE DISCHARGE ON ONE-TO-FOUR-FAMILY RESIDENTIAL PROPERTY

(a) Subject to the provisions of subsection (b) of this section, a mortgage discharge executed on behalf of a banking or lending institution with respect to a mortgage encumbering a one-to-four-family residential real property, including a residential unit in a condominium or in a common interest community as defined in Title 27A, that is not valid because it is not executed by or is not issued by or in the name of the record holder of the mortgage, shall be valid as if it had been issued or executed by the record holder of the mortgage if:

(1) No person has within three years after the discharge is recorded brought an action challenging the validity of the discharge and recorded a copy of the complaint in the land records of the town where the discharge is recorded; and

(2) An affidavit is recorded that is dated more than three years after the recording date of the mortgage discharge and contains the following:

(A) A statement that the affiant has been the record owner of the real property described in the mortgage for at least two years prior to the date of the affidavit.

(B) The recording information for the mortgage, any assignments, and the release.

(C) A statement that, since the date of the recording of the release, the affiant has received no demand for payment of all or any portion of the debt secured by the mortgage and has received no notice or communication that would indicate that all or any portion of the mortgage debt remains due or owing.

(D) A statement that, to the best of the affiant's knowledge and belief, the mortgage has been paid in full.

(b) The provisions of this section shall not apply to any release obtained by fraud or forgery.

Sec. 2. 27 V.S.A. § 141 is amended to read:

§ 141. EXECUTION AND ACKNOWLEDGMENT OF CONVEYANCE

(a) A homestead or an interest therein shall not be conveyed by the owner thereof, if married, except by way of mortgage for the purchase money thereof given at the time of such purchase, unless the wife or husband joins in the execution and acknowledgment of such conveyance. A conveyance thereof, or of an interest therein, not so made and acknowledged, shall be inoperative so far only as relates to the homestead provided for in this chapter.

(b) When a mortgagee takes an accruing mortgage, the only debt which shall be secured thereby or become a lien upon the property described therein shall be the debt described in the mortgage and existing at the time of its execution, and any subsequent direct indebtedness of the mortgagor to such mortgagee; provided, that when the mortgage includes a homestead, the written consent of the wife or husband of the mortgagor to the creation of such subsequent direct indebtedness shall be required.

(c) If a mortgaged property includes a homestead, any amendment to the mortgage which increases the amount of the indebtedness secured thereby or extends the date of maturity thereof, shall be executed and acknowledged by both spouses. The failure to obtain the written spousal consent shall not affect

the validity or priority of such amendment, but the lien created thereby shall be inoperative so far only as relates to the rights of homestead of such spouse in the mortgaged premises under chapter 3 of this title, provided the amendment is challenged by such spouse before his or her homestead interest is otherwise extinguished.

(d) Notwithstanding anything to the contrary in this section, a spouse or civil union partner may convey his or her respective homestead interest to the other spouse or civil union partner prior to the time the homestead right vests, thereby divesting the grantor of any homestead interest in the property. A conveyance of homestead property between spouses or civil union partners shall be deemed to include a conveyance of any homestead interest. This section shall apply retroactively, except that it shall not affect a suit begun or pending as of July 1, 2008.

Sec. 3. 27 V.S.A. § 348 is amended to read:

**§ 348. INSTRUMENTS CONCERNING REAL PROPERTY LACKING
STATEMENT OF CONSIDERATION, OR WITNESSES OR
ACKNOWLEDGMENTS, VALIDATED**

(a) When an instrument of writing shall have been on record in the office of the clerk in the proper town for a period of 15 years, and there is a defect in the instrument because it omitted to state any consideration therefor or was not sealed, witnessed, acknowledged, validly acknowledged, or because a license to sell was not validly issued or is defective, the instrument shall, from and after the expiration of 15 years from the filing thereof for record, be valid. Nothing herein shall be construed to affect any rights acquired by grantees, assignees or encumbrancers under the instruments described in the preceding sentence, nor shall this section apply to conveyances or other instruments of writing, the validity of which is brought in question in any suit now pending in any courts of the state.

(b) Notwithstanding subsection (a) of this section, any deed, mortgage, lease, power of attorney, release, discharge, assignment, or other instrument made for the purpose of conveying, leasing, mortgaging, or affecting any interest in real property which contains any one or more of the following errors is valid unless, within three years after the instrument is recorded, an action challenging its validity is commenced, and a copy of the complaint is recorded in the land records of the town where the instrument is recorded:

(1) The instrument contains a defective acknowledgment.

(2) In the case of a conveyance by a corporation, limited liability company, partnership, limited partnership, or limited liability partnership, or by any other entity authorized to hold and convey title to real property within

this state, the instrument designated such entity as the grantor but was signed or acknowledged by an individual in the individual capacity of such person, or fails to disclose the authority of the individual who executes and acknowledges the instrument.

(3) The instrument contains an incorrect statement of the date of execution, or contains an execution date or other date that is later than the date of the recording. In case of such conflict the date of recording prevails.

(4) The instrument does not contain a statement of consideration.

(c) Notwithstanding the provisions of subsection (a) of this section, any deed, mortgage, lease, power of attorney, release, discharge, assignment, or other instrument made for the purpose of conveying, leasing, mortgaging, or affecting any interest in real property which is executed pursuant to a recorded power of attorney and contains one or more of the following errors or omissions is valid as if it had been executed without the error or omission:

(1) The instrument was executed by an attorney-in-fact but was signed or acknowledged by the attorney-in-fact without reference to his or her capacity.

(2) The instrument was executed by an attorney-in-fact but does not reference the power of attorney.

(3) The power of attorney was effective at the time the instrument was executed but is recorded after the instrument is recorded.

(d) A release, discharge, or assignment of mortgage interest executed by a commercial lender with respect to a one-to-four-family residential real property, including a residential unit in a condominium or in a common interest community as defined in Title 27A, which recites authority to act on behalf of the record holder of the mortgage under a power of attorney but where the power of attorney is not of record, shall have the same effect as if executed by the record holder of the mortgage unless, within three years after the instrument is recorded, an action challenging the release, discharge or assignment is commenced and a copy of the complaint is recorded in the land records of the town where the release, discharge, or assignment is recorded. This subsection shall not apply to releases, discharges, or assignments obtained by fraud or forgery.

Sec. 4. 9 V.S.A. § 4005a is added to read:

§ 4005a. FUND HELD IN TRUST; COMMINGLING; NO EFFECT ON
TITLE TO REAL PROPERTY

(a) For the purposes of this section:

(1) "Claim" means any valid claim for materials furnished or services rendered in the construction, repair, remodeling, improvement, or renovation of any building or structure for which the claimant has a lien or the right to claim a lien.

(2) "Express trust" means funds that have been paid by an owner, for or in connection with services, labor, or materials used in an improvement of real property, which are to be held by a contractor or subcontractor, in express trust, for those services, labor, or materials. Any such contractor or subcontractor who accepts money from any owner or contractor shall become the trustee of the express trust that is created pursuant to this section. The amounts received by such contractor or subcontractor under or in connection with each building project shall be a separate trust and the contractor or subcontractor, or any successor or assign or both of such contractor or subcontractor that hold such trust funds, shall be a trustee thereof. These funds are not required to be held in any separate account by a contractor or subcontractor. Such trust shall be effective against and shall have priority over any unsecured interest of a party seeking payment from such contractor or subcontractor for claims other than those that are due and owing by reason of the specific building project for which the trust was created, whether such creditors are foreign attachment or other judicial lien creditors, a trustee in bankruptcy or similar creditors or representatives or creditors of the contractor or subcontractor.

(b) Funds held in express trust are not required to be held in any separate account by a contractor or subcontractor.

(c) No express trust shall be required for a federal, state, or municipal project.

(d) The amount payable to any contractor or subcontractor under any contract for the construction, repair, remodeling, improvement, or renovation of any building or structure shall, upon receipt by such contractor or subcontractor, be held in express trust by such contractor or subcontractor for the payment of all claims that are due and owing, or to become due and owing, by such contractor or subcontractor by reason of such construction, repair, remodeling, improvement, or renovation.

(e) Any amount required to be held in express trust under this section shall be applied to the payment of the corresponding claims specified in this section.

(f) Nothing herein shall be construed to create a lien on real property. The existence of an express trust under this section shall not prohibit the filing or enforcement of a lien against the affected real property pursuant to chapter 51

of Title 9 by any claimant. A priority lien of a secured lender shall not be subordinate to an express trust.

(g) In the case of an express trust which is not held by a corporation, limited liability partnership, or limited liability company, liability for sums due under this section shall only attach to the principal or head of the company which holds the funds under the express trust.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 283

Rep. Chen of Mendon, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to managed care organizations and the blueprint for health;

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 9414(a)(1), (b), and (e) are amended to read:

(a) The commissioner shall have the power and responsibility to ensure that each managed care organization provides quality health care to its members, in accordance with the provisions of this section.

(1) In determining whether a managed care organization meets the requirements of this section, the commissioner shall annually review and examine, in accordance with subsection (e) of this section, the organization's administrative policies and procedures, quality management and improvement procedures, utilization management, credentialing practices, members' rights and responsibilities, preventive health services, medical records practices, grievance and appeal procedures, member services, financial incentives or disincentives, disenrollment, provider contracting, and systems and data reporting capacities. The commissioner may establish, by rule, specific criteria to be considered under this section.

(b)(1) A managed care organization shall assure that the health care services provided to members are consistent with prevailing professionally recognized standards of medical practice.

(2) A managed care organization shall establish a chronic care program as needed to implement the blueprint for health established in chapter 13 of this title. The program shall include:

(A) appropriate benefit plan design;

(B) informational materials, training, and follow-up necessary to support members and providers; and

(C) payment reform methodologies.

(3) Each managed care organization shall have procedures to assure availability, accessibility and continuity of care, and ongoing procedures for the identification, evaluation, resolution, and follow-up of potential and actual problems in its health care administration and delivery.

(e) The commissioner shall evaluate review a managed care organization's performance under the requirements of this section at least once every three years and more frequently as the commissioner deems proper. If upon review the commissioner determines that the organization's performance with respect to one or more requirements warrants further examination, the commissioner shall conduct a comprehensive or targeted examination of the organization's performance. The commissioner may designate another organization to conduct any evaluation under this subsection. Any such independent designee shall have a confidentiality code acceptable to the commissioner, or shall be subject to the confidentiality code adopted by the commissioner under subdivision (f)(3) of this section. In conducting an evaluation under this subsection, the commissioner or the commissioner's designee shall employ, retain, or contract with persons with expertise in medical quality assurance.

Sec. 2. 8 V.S.A. § 4088f is added to read:

§ 4088f. HEALTH INSURANCE AND THE BLUEPRINT FOR HEALTH

(a) A health insurance plan shall be offered, issued, and administered consistent with the blueprint for health established in chapter 13 of Title 18, as determined by the commissioner.

(b) As used in this section, "health insurance plan" means any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this state by a health insurer, as defined in section 9402 of Title 18. The term shall include the health benefit plan offered by the state of Vermont to its employees and any health benefit plan offered by any agency or instrumentality of the state to its employees. The term shall not include benefit plans providing coverage for

specific disease or other limited benefit coverage unless so directed by the commissioner.

Sec. 3. SUPPORT OF BLUEPRINT INTEGRATED EARLY IMPLEMENTATION PILOT PROGRAMS

(a) As used in this section, "health insurer" means a health insurance company doing business in Vermont whose individual share of the commercially insured Vermont market, as measured by covered lives, comprises at least five percent of the commercially insured Vermont market.

(b) The blueprint director shall establish a pilot design and evaluation committee to assist with design, implementation, and evaluation of the integrated early implementation pilot programs, as defined in section 7 of No. 71 of the Acts of 2007. The committee shall:

(1) work collaboratively with the blueprint director to accomplish the provisions in subsections (c) through (g) of this section; and

(2) include a representative of each of the participating health insurers; a participating provider from each pilot community; a representative of the Vermont department of health; a representative of the office of Vermont health access; a representative of the department of banking, insurance, securities, and health care administration; a naturopathic physician; a representative of the business community; and a representative of the Vermont Medical Society.

(c) Implementation of the first pilot program shall begin no later than July 1, 2008. Implementation of the second pilot program shall begin no later than October 1, 2008. Implementation of the third pilot program shall begin no later than January 1, 2009.

(d) No later than May 31, 2008, health insurers and the office of Vermont health access shall commit in writing to participation in the three integrated early implementation pilot projects as described in section 7 of No. 71 of the Acts of 2007 and as further specified by the provisions of this section. Such commitment shall include agreement to:

(1) provide financial support for a five-member community care team in each of the three integrated early implementation pilot program communities established pursuant to subsection 7(f) of No. 71 of the Acts of 2007. The department of health, health insurers, and the office of Vermont health access shall each contribute equal shares of such financial support for the community care teams, with the exception that MVP Healthcare shall contribute one half of that share;

(2) provide financial support for payment reform for providers in practices that are participating as part of the three integrated early implementation pilot programs as referenced in subsections 7(e) and 7(g) of No. 71 of the Acts of 2007;

(3) provide claims data-sharing for evaluation of the effectiveness of these integrated pilot programs as referenced in subsections 7(c) and 7(e) of Act 71 of No. 71 of the Acts of 2007; and

(4) actively participate in program design, implementation, and evaluation activities.

(e) No later than May 31, 2008, the blueprint director shall adopt designs for the financial support models in subdivisions (d)(1) and (d)(2) of this section and for the plan to evaluate healthcare process quality, including targets for key outcomes to be achieved by the pilots.

(f) By January 1, 2010, as part of the blueprint annual report, the blueprint director shall include a report on integrated pilot program implementation and preliminary evaluation findings.

(g) No later than six months after the third integrated pilot has completed 12 months of clinical operations, the blueprint director and the pilot design and evaluation committee shall assess whether there is sufficient clinical and financial gain from these types of programs to move forward with statewide implementation.

(1) The blueprint director shall provide a final evaluation report to the senate committee on health and welfare, the house committee on health care, and the commission on health care reform.

(2) If evidence supports statewide implementation, the final evaluation report shall include recommendations to achieve this goal.

(h) If the commissioner of banking, insurance, securities, and health care administration determines that a health insurer is not participating in an adequate and appropriate manner, as determined by the commissioner, in the activities described in this section, the commissioner, in addition to any other remedy or sanction provided for by law, may order the health insurer to participate in such blueprint initiatives and take such other actions as the commissioner determines necessary to carry out the purposes of this section.

Sec. 4. REPEAL

Sec. 3 of this act, relating to blueprint integrated early implementation pilot programs, shall be repealed on July 1, 2012.

Sec. 5. 18 V.S.A. § 1120 is amended to read:

§ 1120. DEFINITIONS

As used in this subchapter:

(1) "Child care facility" means a child care facility or family day care home licensed or registered under chapter 35 of Title 33, unless exempted by rule adopted under section 1123 of this title.

(2) "School" "School" means a public or independent prekindergarten, kindergarten, elementary or secondary school or any postsecondary school as defined in 16 V.S.A. § 176(b), unless exempted by rule adopted pursuant to section 1123 of this title.

Sec. 6. 18 V.S.A. § 1121 is amended to read:

§ 1121. IMMUNIZATIONS REQUIRED PRIOR TO ATTENDING
SCHOOL AND CHILD CARE FACILITIES

(a) No person may enroll as a student in a Vermont school, regardless of whether the student has been enrolled in the school during a previous school year, unless the appropriate school official has received a record or certificate of immunization issued by a licensed ~~physician~~ health care practitioner or a health clinic that the person has received required immunizations appropriate to age as specified by the Vermont department of health.

(b) No person may enroll or retain a child in a child care facility, regardless of whether the child has been enrolled in the facility during a previous year, unless the facility has received a record or certificate of immunization issued by a licensed health care practitioner or a health clinic that the child has received required immunizations in the prior 12-month period appropriate to age as specified by the Vermont department of health.

Sec. 7. 18 V.S.A. § 1122 is amended to read:

§ 1122. EXEMPTIONS

(a) A person may remain in school or in the child care facility without a required immunization:

(1) If the person, or in the case of a minor the person's parent or guardian presents a written statement from a licensed ~~physician~~ health care practitioner, health clinic, or nurse that the person is in the process of being immunized. The person may continue to attend school or the child care facility as long as the immunization process is being accomplished;

(2) If a ~~physician~~ health care practitioner, licensed to practice in Vermont, certifies in writing that a specific immunization is or may be detrimental to the person's health or is not appropriate;

(3) If the person, or in the case of a minor the person's parent or guardian states in writing that the person, parent, or guardian has religious beliefs or ~~moral~~ philosophical convictions opposed to immunization.

(b) The health department may provide by rule for further exemptions to immunization based upon sound medical practice.

Sec. 8. 18 V.S.A. § 1123 is amended to read:

§ 1123. IMMUNIZATION RULES AND REGULATIONS

The health department shall adopt rules for administering this subchapter. Such rules shall be developed in consultation with the department of education shall establish rules for administering this subchapter with respect to immunization requirements for Vermont schools, and in consultation with the department for children and families with respect to immunization requirements for child care facilities. Such rules shall establish which immunizations shall be required and the manner and frequency of their administration, and may provide for exemptions as authorized by this subchapter.

Sec. 9. 18 V.S.A. § 1124 is amended to read:

§ 1124. ACCESS TO RECORDS

Appropriate health personnel, including school nurses, shall have access to student immunization records of anyone enrolled in Vermont schools or child care facilities, when access is required in the performance of official duties related to the immunizations required by this subchapter. Access to student immunization records shall only be provided with the prior written consent of parents and students as required by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and any regulations adopted thereunder.

Sec. 10. 18 V.S.A. § 1126 is amended to read:

§ 1126. NONCOMPLIANCE

The school board of each district, or the board of trustees of each independent school, or the chief executive officer of each ~~post-secondary~~ school, or the director of each child care facility shall exclude from school or a child care facility any person not otherwise exempted under this subchapter who fails to comply with its provisions. No person shall be excluded for failure to comply with the provisions of this subchapter unless there has been a notification by the appropriate school or child care facility authority to the person, or in the case of a minor to the person's parent or guardian of the noncompliance with this subsection, and of their rights under section 1122 of this title. In the event of exclusion, school officials or the

director of the child care facility shall notify the department of health and contact the parents or guardians in an effort to secure compliance with the requirements of this subchapter so that the person may attend school or the child care facility.

Sec. 11. 18 V.S.A. § 1129 is amended to read:

§ 1129. ~~CHILDHOOD~~ IMMUNIZATION REGISTRY

(a) A health care provider shall report to the department all data regarding ~~required~~ immunizations of adults and of children under the age of 18 within seven days of the immunization, provided that required reporting of immunizations of adults shall commence within one month after the health care provider has established an electronic health records system and data interface pursuant to the e-health standards developed by the Vermont information technology leaders. A health insurer shall report to the department all data regarding immunizations of adults and of children under the age of 18 at least quarterly. The All data required pursuant to this subsection shall be reported in a form required by the department.

(b) The department may use the data to create a registry of ~~childhood~~ immunizations. Registry information regarding a particular adult shall be provided, upon request, to the adult, the adult's health care provider, and the adult's health insurer. A minor child's record also may be provided, upon request, to school nurses, and upon request and with written parental consent, to licensed day care providers, to demonstrate document compliance with Vermont immunization laws. Registry information regarding a particular child shall be provided, upon request, to the child after the child reaches the age of majority and to the child's parent, guardian, health insurer, and health care provider. Registry information shall be kept confidential and privileged and may be shared only in summary, statistical, or other form in which particular individuals are not identified.

Sec. 12. EFFECTIVE DATE

This act shall take effect July 1, 2008, except that Sec. 3 and this section shall take effect upon passage.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Thereupon, **Rep. Donahue of Northfield** asked that the question be divided and that Sec. 11 be taken up first.

Pending the question, Shall the House propose to the Senate to amend the bill in Sec. 11, as recommended by the committee on Health Care? **Rep.**

Donahue of Northfield demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the bill in Sec. 11, as recommended by the committee on Health Care? was decided in the affirmative. Yeas, 88. Nays, 46.

Those who voted in the affirmative are:

Ancl of Calais
Anderson of Montpelier
Atkins of Winooski
Audette of S. Burlington
Barnard of Richmond
Bissonnette of Winooski
Botzow of Pownal
Bray of New Haven
Browning of Arlington
Chen of Mendon
Cheney of Norwich
Clarkson of Woodstock
Condon of Colchester
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Courcelle of Rutland City
Deen of Westminster
Donaghy of Poultny
Dostis of Waterbury
Edwards of Brattleboro
Emmons of Springfield
Evans of Essex
Fallar of Tinnmouth
Fisher of Lincoln
Fitzgerald of St. Albans City
Frank of Underhill
French of Randolph
Gervais of Enosburg
Godin of Milton

Grad of Moretown
Haas of Rochester
Head of S. Burlington
Heath of Westford
Hosford of Waitsfield
Howard of Rutland City
Hunt of Essex
Hutchinson of Randolph
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Keenan of St. Albans City
Keogh of Burlington
Kitzmiller of Montpelier
Klein of East Montpelier
Larson of Burlington
Lenes of Shelburne
Leriche of Hardwick
Lippert of Hinesburg
Lorber of Burlington
Maier of Middlebury
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane
Martin, C. of Springfield
Martin of Wolcott
Masland of Thetford
McCormack of Rutland City
McCullough of Williston
Milkey of Brattleboro

Miller of Shaftsbury
Minter of Waterbury
Mitchell of Barnard
Monti of Barre City
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney
Nease of Johnson
Nuovo of Middlebury
Obuchowski of Rockingham
O'Donnell of Vernon
Ojibway of Hartford
Orr of Charlotte
Oxholm of Vergennes
Partridge of Windham
Pearson of Burlington
Pellett of Chester
Peltz of Woodbury
Perry of Richford
Peterson of Williston
Potter of Clarendon
Pugh of S. Burlington
Rodgers of Glover
Shand of Weathersfield
Sharpe of Bristol
Spengler of Colchester
Sweaney of Windsor
Wheeler of Derby
Zenie of Colchester

Those who voted in the negative are:

Acinapura of Brandon
Adams of Hartland
Ainsworth of Royalton
Allard of St. Albans Town
Andrews of Rutland City
Baker of West Rutland
Bostic of St. Johnsbury
Branagan of Georgia
Brennan of Colchester
Canfield of Fair Haven

Clark of Vergennes
Clerkin of Hartford
Crawford of Burke
Davis of Washington
Devereux of Mount Holly
Donahue of Northfield
Errecart of Shelburne
Flory of Pittsford
Gilbert of Fairfax
Grenier of St. Johnsbury

Helm of Castleton
Howrigan of Fairfield
Hube of Londonderry
Johnson of Canaan
Komline of Dorset
Krawczyk of Bennington
Larocque of Barnet
LaVoie of Swanton
Lawrence of Lyndon
Lewis of Derby

Livingston of Manchester	Morrissey of Bennington	Westman of Cambridge
Marcotte of Coventry	Myers of Essex	Winters of Williamstown
McAllister of Highgate	Peaslee of Guildhall	Wright of Burlington
McDonald of Berlin	Scheuermann of Stowe	Zuckerman of Burlington
McFaun of Barre Town	Turner of Milton	
McNeil of Rutland Town	Valliere of Barre City	

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Larrabee of Danville	Smith of Morristown
Consejo of Sheldon	Morley of Barton	Stevens of Shoreham
Kilmartin of Newport City	Otterman of Topsham	Symington of Jericho
Koch of Barre Town	Pillsbury of Brattleboro	Trombley of Grand Isle
Kupersmith of S. Burlington	Randall of Troy	Weston of Burlington

Rep. Donahue of Northfield explained her vote as follows:

"Madam Speaker:

This bill takes yet another step encroaching on the civil liberties of Vermonters by giving them no choice in turning their medical information over to the state."

Thereupon, Secs. 1-10 and Sec. 12 were agreed to and third reading ordered.

Favorable Report; Third Reading Ordered

H. 659

Rep. Manwaring of Wilmington, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of the adoption of the charter of the town of Enosburg;

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 313

Rep. Moran of Wardsboro, for the committee on General, Housing and Military Affairs, to which had been referred Senate bill, entitled

An act relating to a license to store and ship wine;

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking Sec. 1 and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 68 is added to read:

§ 68. VINOUS BEVERAGE STORAGE AND SHIPPING LICENSE

The liquor control board may grant to a person who operates a climate-controlled storage facility in which vinous beverages owned by another person are stored for a fee a license that allows the licensee to store and transport vinous beverages on which all applicable taxes already have been paid. A vinous beverage storage facility may also accept shipments from any licensed in-state or out-of-state vinous manufacturer that has an in-state or out-of-state consumer shipping license pursuant to section 66 of this title. Vinous beverages stored may be transported only for shipment to the owner of the beverages or to another licensed vinous beverage storage facility, and the beverages shall be shipped only by common carrier in compliance with subsection 66(f) of this title. The licensee shall pay a fee pursuant to subdivision 231(a)(20) of this title. A license under this section shall be issued pursuant to rules adopted by the board. A person granted a license pursuant to this section may not sell or resell any vinous beverages stored at the storage facility.

Rep. Sharpe of Bristol, for the committee on Ways and Means, recommended the bill ought to pass in concurrence when amended as recommended by the committee on General, Housing and Military Affairs.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the report of the committees on General, Housing and Military Affairs and Ways and Means agreed to and third reading ordered.

Favorable Reports; Third Reading Ordered

Senate bills of the following titles were severally reported favorably from the Committees to which they had been referred, and the bills, having appeared on the Calendar one day for notice, were taken up, read the second time and third reading ordered:

S. 89

By Rep. Pellett of Chester, for the committee on Judiciary,
Senate bill, entitled

An act relating to permitting payment of rent into court pursuant to a commercial lease;

S. 368

By **Rep. McCullough of Williston**, for the committee on Fish, Wildlife and Water Resources,

Senate bill, entitled

An act relating to the addition of new types of disinfectants to public water systems;

Senate Proposal of Amendment Concurred in**H. 149**

The Senate proposed to the House to amend House bill, entitled

An act relating to liquor identification and tobacco licenses;

In Sec. 1, 7 V.S.A. § 602, in the first sentence after the words: "operator's license" by adding the following: , enhanced driver's license,

Which proposal of amendment was considered and concurred in.

**Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested****H. 615**

The Senate proposed to the House to amend House bill, entitled

An act relating to juvenile judicial proceedings;

First: In Sec. 1, 33 V.S.A. § 5102, in subdivision (5), by adding a second sentence to read:

Any conditions and limitations shall be directed to the individual to whom custody is granted.

and in the same section by adding a new subdivision (28) to read as follows:

(28) "Youth" shall mean a person who is the subject of a motion for youthful offender status or who has been granted youthful offender status.

and by renumbering the remaining subdivision to be numerically correct.

Second: In Sec. 1, 33 V.S.A. § 5104(a), by striking out the number "19" and inserting in lieu thereof the number 22

Third: In Sec. 1, 33 V.S.A. § 5108(b), after the first sentence, by adding a (c) so that the second sentence of subsection (b) becomes new subsection (c); and by relettering the remaining subsections of § 5108 to be alphabetically correct.

Fourth: In Sec. 1, 33 V.S.A. § 5110(b), after the words “work of the court” by adding the following words, including a foster parent or a representative of a residential program where the child resides,

Fifth: In Sec. 1, 33 V.S.A. § 5114, in subdivision (a)(4), by striking out the word “affection” and inserting in lieu thereof the words emotional support and in subsection (b) by striking out the word “affection” and inserting in lieu thereof the words emotional support

Sixth: In Sec. 1, 33 V.S.A. § 5115(e) after the words “pursuant to this section who” by adding the word intentionally

Seventh: In Sec. 1, 33 V.S.A. § 5117, in subdivision (b)(2) by striking out the words “Records and files” and inserting in lieu thereof the word Files and in subsection (c), after the first sentence by adding the following: Files inspected under this subsection shall be marked: UNLAWFUL DISSEMINATION OF THIS INFORMATION IS A CRIME PUNISHABLE BY A FINE OF UP TO \$2,000.00.

Eighth: By adding a new Sec. 2 to read as follows:

Sec. 2. 33 V.S.A. chapter 52 is added to read:

CHAPTER 52. DELINQUENCY PROCEEDINGS

Subchapter 1. Commencement of Proceedings

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

(a) Proceedings under this chapter shall be commenced by:

(1) transfer to the court of a proceeding from another court as provided in section 5203 of this title; or

(2) the filing of a delinquency petition by a state's attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the state's attorney shall provide to the court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) Consistent with applicable provisions of Title 4, any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining the age of 14, but not the age of 18, shall originate in district or superior court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) If the state requests that custody of the child be transferred to the department, a temporary care hearing shall be held as provided in subchapter 3 of this chapter.

(e) A petition may be withdrawn by the state's attorney at any time prior to the hearing thereon, in which event the child shall be returned to the custodial parent, guardian, or custodian, the proceedings under this chapter terminated, and all files and documents relating thereto sealed under section 5119 of this title.

§ 5202. ORDER OF ADJUDICATION; NONCRIMINAL

(a)(1) An order of the juvenile court in proceedings under this chapter shall not:

(A) be deemed a conviction of crime;

(B) impose any civil disabilities sanctions ordinarily resulting from a conviction; or

(C) operate to disqualify the child in any civil service application or appointment.

(2) Notwithstanding subdivision (1) of this subsection, an order of delinquency in proceedings transferred under subsection 5203(b) of this title, where the offense charged in the initial criminal proceedings was a violation of those sections of Title 23 specified in subdivision 801(a)(1), shall be an event in addition to those specified therein, enabling the commissioner of motor vehicles to require proof of financial responsibility under chapter 11 of Title 23.

(b) The disposition of a child and evidence given in a hearing in a juvenile proceeding shall not be admissible as evidence against the child in any case or proceeding in any other court except after a subsequent conviction of a felony in proceedings to determine the sentence.

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a district court that the defendant was under the age of 16 years at the time the offense charged was alleged to have been committed and the offense charged is not one of those specified in subsection 5204(a) of this title, that court shall forthwith transfer the case to the juvenile court under the authority of this chapter.

(b) If it appears to a district court that the defendant was over the age of 16 years and under the age of 18 years at the time the offense charged was alleged to have been committed, or that the defendant had attained the age of 14 but not the age of 16 at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the juvenile court under the authority of this chapter, and the

minor shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the state's attorney that the defendant was over the age of 16 and under the age of 18 at the time the offense charged was alleged to have been committed and the offense charged is not an offense specified in subsection 5204(a) of this title, the state's attorney may file charges in a juvenile court or the district court. If charges in such a matter are filed in district court, the district court may forthwith transfer the proceeding to the juvenile court under the authority of this chapter, and the person shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act.

(d) Any such transfer shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the juvenile court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the juvenile court at a time designated by that court. The juvenile court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.

(e) Motions to transfer a case to family court for youthful offender treatment shall be made under section 5281 of this title.

(1) The defendant enters a plea of guilty or nolo contendere to the offense charged pursuant to Rule 11 of the Vermont Rules of Criminal Procedure.

(2) The defendant is amenable to treatment or rehabilitation as a youthful offender.

(3) Public safety will be secured by treating the defendant as a youthful offender.

§ 5204. TRANSFER FROM JUVENILE COURT

(a) After a petition has been filed alleging delinquency, upon motion of the state's attorney and after hearing, the juvenile court may transfer jurisdiction of the proceeding to district court, if the child had attained the age of 10 but not the age of 14 at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

(1) arson causing death as defined in 13 V.S.A. § 501;