

Journal of the Senate

FRIDAY, MARCH 11, 2011

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Susan McKnight of Warren.

Message from the House No. 29

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

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 38. An act relating to adopting the interstate compact on educational opportunity for military children.

H. 240. An act relating to continuing to provide for the receivership of long-term care facilities.

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

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

J.R.S. 21. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Message from the House No. 30

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

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 13. An act relating to deer doing damage to forest resources.

H. 143. An act relating to the taxation of certain Internet sales.

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

Bills Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 90.

By Senator Pollina,

An act relating to respectful language in state statutes in referring to people with disabilities .

To the Committee on Government Operations.

Committee Bills Introduced

Senate committee bills of the following titles were severally introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 91.

By the Committee on Transportation,

An act relating to motor vehicle operation and entertainment pictures.

S. 92.

By the Committee on Education,

An act relating to the protection of students' health by requiring the use of safe cleaning products in schools.

Bills Referred

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

H. 13.

An act relating to deer doing damage to forest resources.

To the Committee on Natural Resources and Energy.

H. 38.

An act relating to ensuring educational continuity for children of military families.

To the Committee on Education.

H. 143.

An act relating to the taxation of certain Internet sales.

To the Committee on Finance.

H. 240.

An act relating to continuing to provide for the receivership of long-term care facilities.

To the Committee on Health and Welfare.

Bill Amended; Bill Passed**S. 58.**

Senate bill entitled:

An act relating to jurisdiction of a crime committed when the defendant was under the age of 16.

Was taken up.

Thereupon, pending third reading of the bill, Senator Illuzzi moved to amend the bill adding two new sections to be numbered Sec. 2 and Sec. 3 to read as follows:

Sec. 2. 33 V.S.A. § 5204 is amended to read:

§ 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 the criminal division of the superior 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;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);
- (4) aggravated assault as defined in 13 V.S.A. § 1024;
- (5) murder as defined in 13 V.S.A. § 2301;
- (6) manslaughter as defined in 13 V.S.A. § 2304;

- (7) kidnapping as defined in 13 V.S.A. § 2405;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or § 2407;
- (9) maiming as defined in 13 V.S.A. § 2701;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2); or
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253;
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c);
- (13) operating a motor vehicle while under the influence of alcohol or other drugs in violation of 23 V.S.A. § 1210(e)(1);
- (14) grossly negligent operation of a motor vehicle with death resulting in violation of 23 V.S.A. § 1091(b); or
- (15) negligent operation of a motor vehicle with death resulting in violation of 23 V.S.A. § 1091(a).

* * *

Sec. 3. 33 V.S.A. § 5119(g) is amended to read:

(g) On application of a person who has pleaded guilty to or has been convicted of the commission of a crime ~~committed~~ committed under the laws of this state which the person committed prior to attaining the age of majority, or on the motion of the court having jurisdiction over such a person, after notice to all parties of record and hearing, the court shall order the sealing of all files and records related to the proceeding if it finds:

- (1) two years have elapsed since the final discharge of the person;
- (2) the person has not been convicted of a listed crime as defined in 13 V.S.A. § 5301 or adjudicated delinquent for such an offense after the initial conviction, and no new proceeding is pending seeking such conviction or adjudication; and
- (3) the person's rehabilitation has been attained to the satisfaction of the court.

And renumbering the remaining sections to be numerically correct.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Illuzzi? Senator Illuzzi requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, pending third reading of the bill, Senator Illuzzi moved to amend the bill by adding a new section to be numbered Sec. 2 to read as follows:

Sec. 2. 23 V.S.A. § 1091 is amended to read:

§ 1091. NEGLIGENT OPERATION; GROSSLY NEGLIGENT OPERATION

(a) Negligent operation.

(1) A person who operates a motor vehicle on a public highway in a negligent manner shall be guilty of negligent operation.

(2) The standard for a conviction for negligent operation in violation of this subsection shall be ordinary negligence, examining whether the person breached a duty to exercise ordinary care.

(3) A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. If the person has been previously convicted of a violation of this subsection, the person shall be imprisoned not more than two years or fined not more than \$3,000.00, or both. If serious bodily injury as defined in 13 V.S.A. § 1021 or death of any person other than the operator results, the person shall be imprisoned for not more than 2 years or fined not more than \$5,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.

* * *

And by renumbering the remaining sections to be numerically correct.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Illuzzi?, Senator Illuzzi requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, pending third reading of the bill, Senator Illuzzi moved to amend the bill by adding a new section to be numbered Sec. 3 to read as follows:

Sec. 3. 33 V.S.A. § 5119(g) is amended to read:

(g) On application of a person who has pleaded guilty to or has been convicted of the commission of a crime ~~committed~~ under the laws of this state which the person committed prior to attaining the age of ~~majority 21~~, or on the motion of the court having jurisdiction over such a person, after notice to all parties of record and hearing, the court shall order the sealing of all files and records related to the proceeding if it finds:

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- (1) two years have elapsed since the final discharge of the person;
 - (2) the person has not been convicted of a listed crime as defined in 13 V.S.A. § 5301 or adjudicated delinquent for such an offense after the initial conviction, and no new proceeding is pending seeking such conviction or adjudication; and
 - (3) the person's rehabilitation has been attained to the satisfaction of the court.

And renumbering the remaining sections to be numerically correct.

Which was agreed to.

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

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, March 15, 2011, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 21.