

Journal of the Senate

THURSDAY, MARCH 1, 2012

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bill Referred to Committee on Appropriations

S. 244.

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to referral to court diversion for driving with a suspended license.

Consideration Postponed

S. 129.

Senator Ashe, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to recognition of the Koasek Abenaki of the Koas as a Native American Indian tribe.

Reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the bill be read a third time?, on motion of Senator Campbell consideration of the bill was postponed until the next legislative day on a division of the Senate Yeas 18, Nays 9.

Bills Amended; Third Readings Ordered

S. 189.

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

An act relating to expanding confidentiality of cases accepted by the court diversion project.

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

Sec. 1. 3 V.S.A. § 164(c)(1) is amended to read:

(c) All adult court diversion projects receiving financial assistance from the attorney general shall adhere to the following provisions:

(1) The diversion project shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The state's attorney shall notify, in writing, the diversion program and the court of his or her intention to refer the person to diversion. If the prosecuting attorney refers a case to diversion, the information and affidavit files held by the court, the state's attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

(A) the board declines to accept the case;

(B) the person declines to participate in diversion; ~~or~~

(C) the board accepts the case, but the person does not successfully complete diversion;

(D) the state's attorney recalls the referral to diversion.

Sec. 2. 3 V.S.A. § 164a is added to read:

§ 164a. RESTITUTION

A diversion program may refer an individual who has suffered a pecuniary loss as a direct result of a delinquent act or crime alleged to have been committed by a juvenile or adult accepted to its program to the restitution unit established by 13 V.S.A. § 5362 for the purpose of application for an advance payment pursuant to 13 V.S.A. § 5363(d)(1). The restitution unit may enter into a repayment contract with a juvenile or adult accepted into diversion and shall have the authority to bring a civil action to enforce the repayment contract in the event that the juvenile or adult defaults in performing the terms of the contract.

(b) The restitution unit and the diversion program shall develop a process for documenting victim loss, information sharing between the unit and diversion programs regarding the amount of restitution paid by the unit and diversion participants' contractual agreements to reimburse the unit, transmittal of payments from participants to the unit, and maintenance of the confidentiality of diversion information.

Sec. 3. 13 V.S.A. § 5362 is amended to read:

§ 5362. RESTITUTION UNIT

* * *

(c) The restitution unit shall have the authority to:

* * *

(7) Enter into a repayment contract with a juvenile or adult accepted into a diversion program and to bring a civil action to enforce the contract when a diversion program has referred an individual pursuant to 3 V.S.A. § 164a.

Sec. 4. 13 V.S.A. § 5363 is amended to read:

§ 5363. CRIME VICTIMS' RESTITUTION SPECIAL FUND

(a) There is hereby established in the state treasury a fund to be known as the crime victims' restitution special fund, to be administered by the restitution unit established by section 5362 of this title, and from which payments may be made to provide restitution to crime victims.

(b)(1) There shall be deposited into the fund:

(A) All monies collected by the restitution unit pursuant to section 7043 and subdivision 5362(c)(7) of this title.

(B) All fees imposed by the clerk of court and designated for deposit into the fund pursuant to section 7282 of this title.

(C) All monies donated to the restitution unit or the crime victims' restitution special fund.

(D) Such sums as may be appropriated to the fund by the general assembly.

* * *

(d)(1) The restitution unit is authorized to advance up to \$10,000.00 to a victim or to a deceased victim's heir or legal representative if the victim:

(A) was first ordered by the court to receive restitution on or after July 1, 2004;

(B) is a natural person or the natural person's legal representative; and

(C) has not been reimbursed under subdivision (2) of this subsection.

(D) is a natural person and has been referred to the restitution unit by a diversion program pursuant to section 164a of Title 3.

* * *

Sec. 5. 13 V.S.A. § 7043(n) is amended to read:

(n) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure of an offender aged 18 or older shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

And that when so amended the bill ought to pass.

Senator Snelling, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 197.

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

An act relating to hospital-based outpatient fees.

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

Sec. 1. 18 V.S.A. § 9458 is added to read:

§ 9458. HOSPITAL-ACQUIRED MEDICAL PRACTICES

(a) Beginning January 1, 2011, whenever a hospital acquires a medical practice, the hospital shall, for a period of 30 months following the date of acquisition, provide written notice as described in subsection (b) of this section to each patient and prospective patient prior to performing the first outpatient service after April 1, 2012 for which such patient or prospective patient may incur an increased out-of-pocket expense.

(b) The written notice provided to a patient pursuant to this section shall notify the patient that the hospital's acquisition of the medical practice may

result in changes to the patient's out-of-pocket expenses for an outpatient visit or ancillary service, including the potential for cost-sharing requirements in excess of the typical office visit co-payment under the patient's health insurance plan.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage and shall apply to any medical practice acquired by a hospital on or after January 1, 2011 for a period of 30 months following the date of acquisition.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 199.

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

An act relating to immunization exemptions and the immunization pilot program.

Reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Nitka moved to amend the bill by striking out Sec. 3.

Which was agreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 25, Nays 4.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ayer, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Galbraith, Giard, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Sears, Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: *Ashe, Baruth, Hartwell, Pollina.

The Senator absent and not voting was: Fox.

*Senator Ashe explained his vote as follows:

“Mr. President:

I have an unanswered question which relates to the effect of this change. Until it is answered I do not feel comfortable voting yes.”

Message from the House No. 31

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. 577. An act relating to public water systems.

H. 756. An act relating to the sales and use tax exemption for packaging equipment.

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

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 558. An act relating to fiscal year 2012 budget adjustment.

And has adopted the same on its part.

Adjournment

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