

# Journal of the House

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**Tuesday, March 11, 2014**

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

## **Devotional Exercises**

Devotional exercises were conducted by Rev. Earl Kooperkamp, Good Shepherd Episcopal Church, Barre, Vt.

## **Pledge of Allegiance**

**Page Elizabeth Goodell of Newbury** led the House in the Pledge of Allegiance.

## **Senate Bills Referred**

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

### **S. 177**

Senate bill, entitled

An act relating to nonjudicial discipline;

To the committee on General, Housing and Military Affairs.

### **S. 263**

Senate bill, entitled

An act relating to the authority of assistant judges in child support contempt proceedings;

To the committee on Judiciary.

### **S. 287**

Senate bill, entitled

An act relating to involuntary treatment and medication;

To the committee on Human Services.

## **Bills Referred to Committee on Ways and Means**

House 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:

**H. 656**

House bill, entitled

An act relating to professions and occupations regulated by the Office of Professional Regulation

**H. 869**

House bill, entitled

An act relating to miscellaneous agricultural subjects

**Bill Referred to Committee on Appropriations**

**H. 239**

House bill, entitled

An act relating to information regarding the rights of landlords and tenants

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

**Bill Amended; Third Reading Ordered**

**H. 685**

**Rep. McCullough of Williston**, for the committee on Fish, Wildlife & Water Resources, to which had been referred House bill, entitled

An act relating to identification and registration of moorings

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 29 V.S.A. § 401 is amended to read:

§ 401. POLICY

(a) Lakes and ponds which are public waters of Vermont and the lands lying thereunder are a public trust, and it is the policy of the State that these waters and lands shall be managed to serve the public good, as defined by section 405 of this title, to the extent authorized by statute. For the purposes of this chapter, the exercise of this management shall be limited to encroachments subject to ~~section 403 of this title~~ subchapter 2 and moorings subject to subchapter 3 of this chapter. The management of these waters and lands shall be exercised by the Department of Environmental Conservation in accordance with this chapter and the rules of the Department.

(b) For the purposes of regulation of encroachments under subchapter 2 of this chapter, jurisdiction of the Department shall be construed as extending to

all lakes and ponds which are public waters and the lands lying thereunder, which lie beyond the shoreline or shorelines delineated by the mean water level of any lake or pond which is a public water of the State, as such mean water level is determined by the Department. For the purposes of regulation of encroachments under subchapter 2 of this chapter, jurisdiction shall include encroachments of docks and piers on the boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation, and encroachments of docks and piers on the Connecticut River impoundments and boatable tributaries of such impounds upstream to the first barrier to navigation. No provision of this chapter shall be construed to permit trespass on private lands without the permission of the owner.

(c) For purposes of regulation of moorings regulated under subchapter 3 of this chapter, jurisdiction of the Department shall be construed as extending to all public waters of the State.

Sec. 2. 29 V.S.A. § 402(8) is added to read:

(8) "Mooring" means a buoy, piling, stake, or other apparatus used to secure, berth, or moor vessels in public water. It does not include fixed piers connected to the shore or accessory structures directly related thereto that are encroachments subject to the permitting requirements of section 403 of this title.

Sec. 3. 29 V.S.A. § 403(b) is amended to read:

(b) A permit shall not be required for the following uses provided that navigation or boating is not unreasonably impeded:

\* \* \*

(6) Moorings, as defined by subdivision 402(8) of this chapter.

Sec. 4. 29 V.S.A. § 406 is amended to read:

#### § 406. APPEALS

Appeals of any act or decision of the ~~department~~ Department under this ~~chapter~~ subchapter shall be made in accordance with 10 V.S.A. chapter 220 ~~of Title 10.~~

Sec. 5. 29 V.S.A. § 409 is amended to read:

#### § 409. INJUNCTION

Any person aggrieved by any violation of this ~~chapter~~ subchapter, or the ~~attorney general~~ Attorney General at the request of the ~~department~~ Department, may institute any appropriate action in the ~~superior court~~ Superior Court of the county in which a proposed or existing encroachment is located to prevent,

restrain, correct, or abate any violation of this ~~chapter~~ subchapter or of the conditions of any permit issued under this ~~chapter~~ subchapter.

Sec. 6. 29 V.S.A. chapter 11, subchapter 3 is added to read:

Subchapter 3. Moorings

§ 416. IDENTIFICATION OF MOORINGS

(a) A person who places a mooring on or in the waters of the State shall paint on or attach to the mooring the owner's name and address.

(b) Any person may use a mooring not bearing the owner's name and address to secure his or her vessel.

§ 417. UNAUTHORIZED USE OF MOORINGS

A person who ties or otherwise attaches a vessel to an identified mooring of another without express permission of the mooring's owner is subject to an administrative penalty of not more than \$75.00.

§ 418. APPEALS

Appeals of any act or decision of the Department under this subchapter shall be made in accordance with 10 V.S.A. chapter 220.

§ 419. APPLICATION OF MUNICIPAL ORDINANCES

This subchapter shall not apply to a mooring subject to a validly issued municipal ordinance.

Sec. 7. RECODIFICATION

29 V.S.A. §§ 401–402 are recodified within chapter 11 to be subchapter 1, which is added to read:

Subchapter 1. General Provisions

Sec. 8. RECODIFICATION

29 V.S.A. §§ 403–410 are recodified within chapter 11 to be subchapter 2, which is added to read:

Subchapter 2. Encroachments

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

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

Pending the question, Shall the bill be amended as recommended by the

committee on Fish, Wildlife and Water Resources? **Rep. Donahue of Northfield** moved to amend the recommendation of amendment as offered by the committee on Fish, Wildlife and Water Resources as follows:

In Sec. 6, by striking 29 V.S.A. § 417 in its entirety and inserting in lieu thereof the following:

§ 417. UNAUTHORIZED USE OF MOORINGS

Unless use of a mooring is necessary in a time of emergency to protect personal safety or property, a person who ties or otherwise attaches a vessel to an identified mooring of another without express permission of the mooring's owner is subject to an administrative penalty of not more than \$75.00.

Which was agreed to.

Thereupon, the recommendation of amendment offered by the committee on Fish, Wildlife and Water Resources, as amended, was agreed to and third reading was ordered.

**Bill Amended, Read Third Time and Passed**

**H. 227**

House bill, entitled

An act relating to licensing and regulating property inspectors

Was taken up and pending third reading of the bill, **Reps. Higley of Lowell Cole of Burlington, Consejo of Sheldon, Devereux of Mount Holly, Evans of Essex, Hubert of Milton, Lewis of Berlin, Martin of Wolcott, Mook of Bennington, Sweaney of Windsor and Townsend of South Burlington** moved to amend the bill as follows:

In Sec. 2, 26 V.S.A. chapter 19, in § 1071 (duties of Director), in subsection (b), before the period, by inserting “, and may adopt rules establishing standards of practice for the profession”

Which was agreed to. Thereupon, the bill was read the third time and passed.

**Third Reading; Bill Passed**

**H. 631**

House bill, entitled

An act relating to lottery commissions

Was taken up, read the third time and passed.

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**Bill Amended; Third Reading Ordered****H. 123**

**Rep. Fisher of Lincoln**, for the committee on Health Care, to which had been referred House bill, entitled

An act relating to Lyme disease and other tick-borne illnesses

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

**Sec. 1. FINDINGS**

The General Assembly finds:

(1) Lyme disease, caused by one or more Borrelia species of spirochete bacteria, is increasingly widespread in Vermont and has become endemic in the State.

(2) Lyme disease is a fast growing vector-borne disease in Vermont.

(3) Lyme disease may be successfully treated with a short-term course of antibiotics if diagnosed early; however, for patients whose Lyme disease is not identified early, complex and ongoing symptoms may require more aggressive treatment as acknowledged by the Centers for Disease Control and Prevention and the International Lyme and Associated Diseases Society.

(4) Treatment of Lyme disease needs to be tailored to the individual patient, and there is a range of opinions within the medical community regarding proper treatment of Lyme disease.

(5) Coinfection by other tick-borne illnesses may complicate and lengthen the course of treatment.

**Sec. 2. PURPOSE**

The purpose of this act is to ensure that patients have access to treatment for Lyme disease and other tick-borne illnesses in accordance with their needs and the clinical judgment of their physicians.

**Sec. 3. POLICY STATEMENT**

A policy statement clearly communicating the following shall be issued by the Vermont State Board of Medical Practice to physicians licensed pursuant to 26 V.S.A. chapter 23 and to physician assistants licensed pursuant to 26 V.S.A. chapter 31; the Vermont Board of Osteopathic Physicians to physicians licensed pursuant to 26 V.S.A. chapter 33; and the Vermont Board of Nursing to advanced practice registered nurses licensed pursuant to 26 V.S.A. chapter 28:

(1) a physician, physician assistant, or nurse practitioner, as appropriate, shall document the basis for diagnosis of and treatment for Lyme disease, other tick-borne illness, or coinfection in a patient's medical record;

(2) a physician, physician assistant, or nurse practitioner, as appropriate, shall obtain a patient's informed consent in writing prior to administering any proposed long-term treatment for Lyme disease, other tick-borne illness, or coinfection; and

(3) the Board shall not pursue disciplinary action against a physician, physician assistant, or nurse practitioner, as appropriate, solely for the use of medical care recognized by the guidelines of the Centers for Disease Control and Prevention, Infectious Diseases Society of America, or International Lyme and Associated Diseases Society for the treatment of a patient's symptoms when the patient is clinically diagnosed with Lyme disease or other tick-borne illness; however, this does not preclude discipline for errors, omissions, or other misconduct when practicing within such guidelines.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

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

Pending the question, Shall the bill be amended as recommended by the committee on Health Care? **Rep. Morrissey of Bennington** 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 bill be amended as recommended by the committee on Health Care? was decided in the affirmative. Yeas, 140. Nays, 0.

Those who voted in the affirmative are:

Ancel of Calais	Canfield of Fair Haven	Deen of Westminster
Bartholomew of Hartland	Carr of Brandon	Devereux of Mount Holly
Batchelor of Derby	Christie of Hartford	Dickinson of St. Albans
Beyor of Highgate	Clarkson of Woodstock	Town
Bissonnette of Winooski	Cole of Burlington	Donaghy of Poultney
Botzow of Pownal	Condon of Colchester	Donahue of Northfield
Bouchard of Colchester	Connor of Fairfield	Donovan of Burlington
Branagan of Georgia	Consejo of Sheldon	Ellis of Waterbury
Brennan of Colchester	Copeland-Hanzas of	Emmons of Springfield
Browning of Arlington	Bradford	Evans of Essex
Burditt of West Rutland	Corcoran of Bennington	Fagan of Rutland City
Burke of Brattleboro	Cupoli of Rutland City	Fay of St. Johnsbury
Buxton of Tunbridge	Dakin of Chester	Feltus of Lyndon
Campion of Bennington	Davis of Washington	Fisher of Lincoln

Frank of Underhill	Lippert of Hinesburg	Russell of Rutland City
French of Randolph	Macaig of Williston	Ryerson of Randolph
Gage of Rutland City	Malcolm of Pawlet	Savage of Swanton
Gallivan of Chittenden	Manwaring of Wilmington	Scheuermann of Stowe
Goodwin of Weston	Marcotte of Coventry	Sharpe of Bristol
Greshin of Warren	Marek of Newfane	Shaw of Pittsford
Haas of Rochester	Martin of Springfield	Smith of New Haven
Head of South Burlington	Martin of Wolcott	South of St. Johnsbury
Heath of Westford	Masland of Thetford	Stevens of Waterbury
Hebert of Vernon	McCarthy of St. Albans City	Stevens of Shoreham
Helm of Fair Haven	McCormack of Burlington	Strong of Albany
Higley of Lowell	McCullough of Williston	Sweaney of Windsor
Hooper of Montpelier	McFaun of Barre Town	Taylor of Barre City
Hoyt of Norwich	Michelsen of Hardwick	Terenzini of Rutland Town
Hubert of Milton	Miller of Shaftsbury	Till of Jericho
Huntley of Cavendish	Mitchell of Fairfax	Toleno of Brattleboro
Jerman of Essex	Mook of Bennington	Toll of Danville
Jewett of Ripton	Moran of Wardsboro	Townsend of South Burlington
Johnson of South Hero	Morrissey of Bennington *	Trieber of Rockingham
Johnson of Canaan	Mrowicki of Putney	Turner of Milton
Juskiewicz of Cambridge	Myers of Essex	Van Wyck of Ferrisburgh
Keenan of St. Albans City	Nuovo of Middlebury	Vowinkel of Hartford
Kilmartin of Newport City	O'Brien of Richmond	Waite-Simpson of Essex
Kitzmiller of Montpelier	O'Sullivan of Burlington	Webb of Shelburne
Klein of East Montpelier	Partridge of Windham	Weed of Enosburgh
Koch of Barre Town	Pearce of Richford	Wilson of Manchester
Komline of Dorset	Pearson of Burlington	Winters of Williamstown
Krebs of South Hero	Peltz of Woodbury	Wizowaty of Burlington
Krowinski of Burlington	Potter of Clarendon	Woodward of Johnson
Lanpher of Vergennes	Pugh of South Burlington	Wright of Burlington
Larocque of Barnet	Quimby of Concord	Yantachka of Charlotte
Lawrence of Lyndon	Rachelson of Burlington	Zagar of Barnard
Lenes of Shelburne	Ralston of Middlebury	
Lewis of Berlin	Ram of Burlington	

Those who voted in the negative are: none

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

Conquest of Newbury	Kupersmith of South Burlington	Spengler of Colchester
Cross of Winooski	Poirier of Barre City	Stuart of Brattleboro
Grad of Moretown	Shaw of Derby	Young of Glover

**Rep. Morrissey of Bennington** explained her vote as follows:

“Mr. Speaker:

This one’s for you, former Representative Dick Howrigan, and all of the Lyme Disease advocates and for those affected. May the Senate complete this

year the work of the House Health Care Committee and the strong unanimous vote of this body. It is long overdue!”

Thereupon, third reading was ordered.

### **Bill Amended; Third Reading Ordered**

#### **H. 542**

**Rep. Stevens of Shoreham**, for the committee on Agriculture and Forest Products, to which had been referred House bill, entitled

An act relating to the taxation of soil amendments

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. § 9701(48)–(52) are added to read:

(48) Compost: means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but does not mean sewage, septage, or materials derived from sewage or septage.

(49) Manipulated animal manure: means manure that is ground, pelletized, mechanically dried, or consists of separated solids.

(50) Perlite: means a lightweight granular material made of volcanic material expanded by heat treatment for use in growing media.

(51) Planting mix: means material that is:

(A) used in the production of plants; and

(B) made substantially from compost, peat moss, or coir and other ingredients that contribute to fertility and porosity, including perlite, vermiculite, and other similar materials.

(52) Vermiculite: means a lightweight mica product expanded by heat treatment for use in growing media.

Sec. 2. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

\* \* \*

(3) Agriculture feeds; seed; plants; baler twine; silage bags; agricultural wrap; sheets of plastic for bunker covers; liming materials; breeding and other livestock; semen breeding fees; baby chicks; turkey poults; agriculture chemicals other than pesticides; veterinary supplies, ~~and~~ bedding; clean high carbon bulking agents, as that term is used in the Agency of Natural Resources Solid Waste Management Rules, used for composting; food residuals used for composting or on-farm energy production; and fertilizers and pesticides for use and consumption directly in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit and truck farms, orchards, nurseries, or in greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities for sale.

\* \* \*

(49) Sales of compost, animal manure, manipulated animal manure, and potting soil.

### Sec. 3. APPLICATION OF SALES TAX; COMPOST

Notwithstanding the imposition under 32 V.S.A. § 9771 of the sales and use tax on the sale of composting for farming, the Department of Taxes shall not impose or collect the sales and use tax on the sale of compost for farming that occurred between January 1, 2012 and July 1, 2014, and taxes paid on such charges shall be refunded upon request if made within the statute of limitations and documented to the satisfaction of the Commissioner of Taxes. As used in this section, “compost” shall have the same meaning as defined in 10 V.S.A. § 1266b(1) and “farming” shall have the same meaning as defined in 10 V.S.A. § 6001(22).

### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

**Rep. Johnson of Canaan**, for the committee on Ways and Means, recommended that the bill ought to pass when amended, as recommended by the committee on Agriculture and Forest Products as follows:

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

\* \* \*

(49) Clean high carbon bulking agents, as that term is used in the Agency of Natural Resources' Solid Waste Management Rules, used for commercial or on-farm composting, and food residuals used for commercial or on-farm composting or on-farm energy production;

(50) Compost, animal manure, manipulated animal manure, and planting mix when any of these items are sold in bulk. As used in this subsection, the term "sold in bulk" shall mean sold in a form that is not prepackaged, or sold in a packaged form in volumes greater than one cubic yard.

Second: By striking out Sec. 3 in its entirety and inserting in lieu thereof the following:

### Sec. 3. STATUTORY PURPOSE

The statutory purpose of the exemptions for composting materials, compost, animal manure, manipulated animal manure, and planting mix in 32 V.S.A. § 9741(49) and (50) is to support the composting industry, and to further the goals of 2012 Acts and Resolves No. 148. The Office of Legislative Council is authorized to place these statutory purposes in the appropriate statutory sections prior to July 1, 2014.

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

### **Bill Amended; Third Reading Ordered**

#### **H. 650**

**Rep. Beyor of Highgate**, for the committee on Fish, Wildlife & Water Resources, to which had been referred House bill, entitled

An act relating to establishing the Ecosystem Restoration and Water Quality Improvement Special Fund

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1264d is added to read:

§ 1264d. ECOSYSTEM RESTORATION AND WATER QUALITY  
IMPROVEMENT SPECIAL FUND

(a) Purpose. The federal and State requirements for the permitting of Municipal Separate Storm Sewer Systems (MS4) require certain communities to collect water flow and precipitation data at monitoring stations on stormwater-impaired waters in order to demonstrate compliance with stormwater Total Maximum Daily Load allocations. The costs, equipment, and expertise to conduct monitoring can be prohibitive to individual communities. The establishment of the Ecosystem Restoration and Water Quality Improvement Special Fund is intended to ensure municipal compliance with the monitoring requirements for MS4 communities while reducing the fiscal and other pressures on these communities.

(b) Creation of fund; purpose. There is created an Ecosystem Restoration and Water Quality Improvement Special Fund, to be managed in accordance with the requirements of 32 V.S.A. chapter 7, subchapter 5, and to be administered by the Secretary of Natural Resources. The Ecosystem Restoration and Water Quality Improvement Special Fund shall be used to provide assistance to municipalities in fulfilling the monitoring, education, and other requirements of the MS4 permitting program. The Secretary is authorized to collect monies for the Fund and to make disbursements from the Fund directly related to the Secretary's oversight of monitoring required under the MS4 program.

(c) Participation by municipalities.

(1) A municipality may through a memorandum of understanding (MOU) with the Secretary of Natural Resources agree to contribute to the Ecosystem Restoration and Water Quality Improvement Special Fund to perform the monitoring and other data collection that a municipality is required to conduct under the MS4 permitting program. Under the MOU, a municipality shall commit to contribute to the Fund the municipalities share of funding required by the Agency of Natural Resources to perform MS4 monitoring and provide oversight and administration. Memoranda of understanding shall serve to coordinate funding and work among municipalities, the State, and any entity contracted with or by a municipality or the State for the purposes of improving water quality.

(2) At a minimum, each memorandum of understanding developed under this section shall contain the following:

(A) the purpose of the memorandum of understanding;

(B) a description of the work to be performed under the memorandum of understanding;

(C) a description of how the coordinated work proposed under the memorandum of understanding will improve water quality;

(D) the entities eligible to participate under the memorandum of understanding; and

(E) the amount of required contribution by the entity, based on a funding formula developed in consultation with entities eligible to participate in the program.

(3) A memorandum of understanding developed under this section shall be posted on the Agency website and subject to a comment period of not less than 30 days.

(4) All participating entities, and the Agency, shall sign any final memoranda of understanding.

(d) Fund proceeds.

(1) The Ecosystem Restoration and Water Quality Improvement Special Fund Deposits shall consist of:

(A) payment of costs by participating MS4 communities;

(B) monies appropriated by the General Assembly; and

(C) any other source, public or private.

(2) Unexpended balances and interest earned on the Fund shall be retained in the Fund for use in accordance with the purposes of the Fund.

(e) Fund accounts; expenditures.

(1) The Secretary shall maintain separate accounts within the Ecosystem Restoration and Water Quality Improvement Special Fund for each memorandum of understanding. The Secretary may establish within the Fund an account for the purpose of conducting education and outreach related to improvements to water quality.

(2) Expenditures from an account shall be limited to the purposes established by the memorandum of understanding associated with that account. The Secretary is prohibited from disbursing funds on behalf of an entity that failed to contribute its assigned allocation pursuant to the funding formula established by the Secretary or for any purpose not associated with that account.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

**Rep. Helm of Fair Haven**, for the committee on Appropriations, recommended that the bill ought to pass when amended, as recommended by the committee on Fish, Wildlife and Water Resources.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Fish, Wildlife & Water Resources and Appropriations agreed to and third reading ordered.

### **Bill Amended; Third Reading Ordered**

#### **H. 795**

**Rep. Fay of St. Johnsbury**, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to victim's compensation and restitution procedures

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 5362 is amended to read:

#### § 5362. RESTITUTION UNIT

(a) A Restitution Unit is created within the Center for Crime Victim Services for purposes of ~~assuring~~ ensuring that crime victims receive restitution when it is ordered by the Court.

(b) The Restitution Unit shall administer the Restitution Fund established under section 5363 of this title.

(c) The Restitution Unit shall have the authority to:

(1) Collect restitution from the offender when it is ordered by the ~~court~~ Court under section 7043 of this title.

(2) ~~Bring an action to enforce~~ Enforce a restitution obligation as a civil judgment under section 7043 of this title. The Restitution Unit shall enforce restitution orders issued prior to July 1, 2004 pursuant to the law in effect on the date the order is issued.

(3)(A) Share and access information, including information maintained by the National Criminal Information Center, consistent with Vermont and federal law, from the Court, the Department of Corrections, the Department of Motor Vehicles, the Department of Taxes, ~~and~~ the Department of Labor, and law enforcement agencies in order to carry out its collection and enforcement functions. The Restitution Unit, for purposes of establishing and enforcing restitution payment obligations, is designated as a law enforcement agency for the sole purpose of requesting and obtaining access to information needed to

identify or locate a person, including access to information maintained by the National Criminal Information Center.

(B) Provide information to the Department of Corrections concerning supervised offenders, including an offender's restitution payment history and balance, address and contact information, employment information, and information concerning the Restitution Unit's collection efforts.

(C) The Restitution Unit is specifically authorized to collect, record, use, and disseminate Social Security numbers as needed for the purpose of collecting restitution and enforcing restitution judgment orders issued by the Court.

(4) Investigate and verify losses as determined by the Restitution Unit, including losses that may be eligible for advance payment from the Restitution Special Fund, and verify the amount of insurance or other payments paid to or for the benefit of a victim, and reduce the amount collected or to be collected from the offender or disbursed to the victim from the Crime Victims' Restitution Special Fund accordingly. The Restitution Unit, when appropriate, shall submit to the ~~court~~ Court a proposed revised restitution order ~~stipulated to by the victim and the unit,~~ with copies provided to the victim and the offender. No hearing shall be required, ~~and the Court shall amend the judgment order to reflect the amount stipulated to by the victim and the Restitution Unit.~~

(5) Adopt such administrative rules as are reasonably necessary to carry out the purposes set forth in this section.

(6) Report offenders' payment histories to credit reporting agencies; ~~provided that the Unit shall not report information regarding offenders who are incarcerated.~~ The Unit shall not make a report under this subdivision until after it has notified the offender of the proposed report by first class mail or other like means to give actual notice, and provided the offender a period not to exceed 20 days to contest the accuracy of the information with the Unit. The Unit shall immediately notify each credit bureau organization to which information has been furnished of any increases or decreases in the amount of restitution owed by the offender.

(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.

(8) Contract with one or more sheriff's departments for the purposes of serving process, warrants, demand letters, and mittimus in restitution cases, and contract with one or more law enforcement agencies or other investigators

for the purpose of investigating and locating offenders and enforcing restitution judgment orders.

(9) Collect from an offender subject to a restitution judgment order all fees and direct costs, including reasonable attorney's fees, incurred by the Restitution Unit as a result of enforcing the order and investigating and locating the offender.

Sec. 2. 13 V.S.A. § 5363 is amended to read:

§ 5363. CRIME VICTIM'S RESTITUTION SPECIAL FUND

\* \* \*

(d)(1) The Restitution Unit is authorized to advance up to ~~\$10,000.00~~ \$5,000.00 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;

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

(D) is a natural person and has been referred to the Restitution Unit by a diversion program pursuant to 3 V.S.A. § 164a.

(2) The Restitution Unit may make advances of up to ~~\$10,000.00~~ \$5,000.00 under this subsection to the following persons or entities:

(A) A victim service agency approved by the Restitution Unit if the agency has advanced monies which would have been payable to a victim under subdivision (1) of this subsection.

(B) A victim who is a natural person or the natural person's legal representative in a case where the defendant, before or after an adjudication of guilt, enters into a drug court contract requiring payment of restitution.

(3) An advance under this subsection shall not be made to the government or to any governmental subdivision or agency.

(4) An advance under this subsection shall not be made to a victim who:

(A) fails to provide the Restitution Unit with the documentation necessary to support the victim's claim for restitution; ~~or~~

(B) violated a criminal law of this State which caused or contributed to the victim's material loss; or

(C) has crime-related losses that are eligible for payment from the Victim Compensation Special Fund.

(5) An advance under this subsection shall not be made for the amount of cash loss included in a restitution judgment order.

(6) An advance under this subsection shall not be made for jewelry, precious metals, luxury items, and collectibles identified in rules adopted by the Unit pursuant to subdivision 5362(c)(5) of this title.

\* \* \*

Sec. 3. 13 V.S.A. § 7043 is amended to read:

§ 7043. RESTITUTION

\* \* \*

(e)(1) An order of restitution shall establish the amount of the material loss incurred by the victim, which shall be the restitution judgment order. In the event the offender is unable to pay the restitution judgment order at the time of sentencing, the Court shall establish a restitution payment schedule for the offender based upon the offender's current and reasonably foreseeable ability to pay, subject to modification under subsection (k) of this section. Notwithstanding 12 V.S.A. chapter 113 or any other provision of law, interest shall not accrue on a restitution judgment.

(2)(A) Every order of restitution shall:

(i) include the offender's name, address, telephone number, and Social Security number;

(ii) include the name, address, and telephone number of the offender's employer; and

(iii) require the offender, until his or her restitution obligation is satisfied, to notify the Restitution Unit within 30 days if the offender's address, telephone number, or employment changes, including providing the name, address, and telephone number of each new employer.

(B) [Repealed.]

(3) An order of restitution may require the offender to pay restitution for an offense for which the offender was not convicted if the offender knowingly and voluntarily executes a plea agreement which provides that the offender pay restitution for that offense. A copy of the plea agreement shall be attached to the restitution order.

(f)(1) If not paid at the time of sentencing, restitution may be ordered as a condition of probation, supervised community sentence, furlough, preapproved furlough, or parole if the convicted person is sentenced to preapproved furlough, probation, or supervised community sentence, or is sentenced to imprisonment and later placed on parole. A person shall not be placed on probation solely for purposes of paying restitution. An offender may not be charged with a violation of probation, furlough, or parole for nonpayment of a restitution obligation incurred after July 1, 2004.

(2) The Department of Corrections shall work collaboratively with the Restitution Unit to assist with the collection of restitution. The Department shall provide the Restitution Unit with information about the location and employment status of the offender.

(g)(1) When restitution is requested but not ordered, the Court shall set forth on the record its reasons for not ordering restitution.

(2)(A) If restitution was not requested at the time of sentencing, or if expenses arose after the entry of a restitution order, ~~the State may file a motion with the sentencing court to reopen the restitution case in order to consider a~~ the victim may request for restitution payable from the Restitution Fund. Restitution ordered paid under this subdivision shall be payable from the Restitution Fund and capped at \$1,000.00, and shall not be payable by the offender.

(B) A motion under this subdivision shall be filed within one year after the imposition of sentence or the entry of the restitution order.

(h) Restitution ordered under this section shall not preclude a person from pursuing an independent civil action for all claims not covered by the restitution order.

(i)(1) ~~The court~~ Court shall transmit a copy of a restitution order and the plea agreement, if any, to the Restitution Unit, which shall make payment to the victim in accordance with section 5363 of this title.

(2) To the extent that the Victims Compensation Board has made payment to or on behalf of the victim in accordance with chapter 167 of this title, restitution, if imposed, shall be paid to the Restitution Unit, which shall make payment to the Victims Compensation Fund.

(j) The Restitution Unit may bring an action, including a small claims procedure, on a form approved by the Court Administrator, to enforce a restitution judgment order entered by the Criminal Division of the Superior Court. The action shall be brought against ~~an~~ the offender in the Civil Division of the Superior Court of the unit where the offender resides or in the unit where

the order was issued. In an action under this subsection, a restitution order issued by the Criminal Division of the Superior Court shall be enforceable in the Civil Division of the Superior Court or in a small claims procedure in the same manner as a civil judgment. Superior and Small Claims Court filing fees shall be waived for an action brought under this subsection, ~~and for an action to renew a restitution judgment.~~

\* \* \*

(m)(1) If the offender fails to pay restitution as ordered by the ~~court~~ Court, the Restitution Unit may file an action to enforce the restitution order in Superior or Small Claims Court. After an enforcement action is filed, any further proceedings related to the action shall be heard in the court where it was filed. The court shall set the matter for hearing and shall provide notice to the Restitution Unit, the victim, and the offender. The Court may order the defendant to appear at the hearing and disclose assets and liabilities and produce any documents the Court deems relevant. If the ~~court~~ Court determines the offender has failed to comply with the restitution order, the ~~court~~ Court may take any action the Court deems necessary to ensure the offender will make the required restitution payment, including:

~~(1)~~(A) amending the payment schedule of the restitution order;

~~(2)~~(B) ordering, in compliance with the procedures required in Rule 4.1 of the Vermont Rules of Civil Procedure, the disclosure, attachment, and sale of assets and accounts owned by the offender;

~~(3)~~(C) ordering the offender's wages withheld pursuant to subsection (n) of this section; or

~~(4)~~(D) ordering the suspension of any recreational licenses owned by the offender.

(2) If the Court finds that the offender has an ability to pay and willfully refuses to do so, the offender may be subject to civil contempt proceedings under 12 V.S.A. chapter 5.

\* \* \*

(p) An obligation to pay restitution is part of a criminal sentence and is:

(1) nondischargeable in the United States Bankruptcy Court to the maximum extent provided under 11 U.S.C. § § 523 and 1328; ~~and~~

(2) not subject to any statute of limitations; and

(3) not subject to the renewal of judgment requirements of 12 V.S.A. § 506.

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\* \* \*

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014 and shall apply to restitution orders issued after that date.

**Rep. Fagan of Rutland City**, for the committee on Appropriations, recommended that the bill ought to pass when amended, as recommended by the committee on Judiciary.

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

**Bill Amended; Third Reading Ordered**

**H. 799**

**Rep. Martin of Springfield**, for the committee on Agriculture and Forest Products, to which had been referred House bill, entitled

An act relating to the importation of untreated firewood

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 83, subchapter 8 is added to read:

Subchapter 8. Importation of Firewood

§ 2681. IMPORTATION OF FIREWOOD; PROTECTION FROM

INVASIVE PESTS

(a) Definitions. As used in this section:

(1) “Commissioner” means the Commissioner of Forests, Parks and Recreation.

(2) “Department” means the Department of Forests, Parks and Recreation.

(3) “Firewood” means wood that is sold or transported for residential or recreational consumption in fireplaces, woodstoves, outdoor fireplaces, or campfires. “Firewood” shall not mean wood chips, wood pellets, fuel for biomass boilers, pulpwood, or other wood sold or transported for manufacturing purposes.

(b) Rulemaking. On or before July 1, 2015, the Commissioner, after consultation with the Secretary of Agriculture, Food and Markets, shall adopt

rules regulating the importation of firewood into the State. The rules shall address:

(1) whether certain types of firewood should be prohibited from importation due to the potential to spread invasive species;

(2) whether a health certificate or some other approval shall be required to import firewood;

(3) whether persons who produce or sell firewood in the State shall be required to track purchases of firewood from out of State in order to allow for identification of sources of invasive species; and

(4) any other issue the Commissioner identifies as necessary for preventing the importation of invasive species into the State when importing firewood.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

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

### **Committee Relieved of Consideration and Bill Committed to Other Committee**

#### **S. 287**

**Rep. Pugh of South Burlington** moved that the committee on Human Services be relieved of Senate bill, entitled

An act relating to involuntary treatment and medication

And that the bill be committed to the committee on Judiciary, which was agreed to.

### **Message from the Senate No. 27**

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

**S. 316.** An act relating to child care providers.

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

The Senate has on its part adopted joint resolution of the following title:

**J.R.S. 48.** Joint resolution relating to weekend adjournment.

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

### **Adjournment**

At eleven o'clock and forty-nine minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.