

Wednesday, June 1, 2011.

Met according to adjournment at eleven o'clock A.M., with Mr. Kafka of Stoughton in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

At the request of the Chair (Mr. Kafka), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag. Pledge of allegiance.

The National Anthem then was sung by the Burncoat High School Quadrivium of Worcester. They were the guest of Representative O'Day of Boylston. National Anthem.

Appointment to the Financial Literacy Trust Fund.

The Speaker announced the appointment of Representative Stanley of Waltham as a trustee of the Financial Literacy Trust Fund established (under Chapter 14 of the Acts of 2011) to encourage financial literacy and education for residents, institutions, community organizations and entities that will promote financial literacy. Financial Literacy Trust Fund.

Statement Concerning Representative Garry of Dracut.

A statement of Mr. Murphy of Burlington concerning Miss Garry of Dracut was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Garry of Dracut, is unable to be present in the House Chamber for today's sitting due to her attendance at the funeral of a member of her family. Her missing of roll calls today is due entirely to the reason stated. Statement concerning Miss Garry of Dracut.

Statement Concerning Representative Kaufman of Lexington.

A statement of Mr. Murphy of Burlington concerning Mr. Kaufman of Lexington was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kaufman of Lexington, is unable to be present in the House Chamber for today's sitting due to previously scheduled commitments. He is attending a family celebration in California and will then be traveling to the Republic of Kosovo as part of a team to lead training sessions for the senior staff of the new National Assembly. His missing of roll calls today through June 10 is due entirely to the reasons stated. Statement concerning Mr. Kaufman of Lexington.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Ms. Garlick of Needham) congratulating Scott Clemens. Scott Clemens.

Resolutions (filed by Ms. Hogan of Stow) congratulating Wesley Durant, Jr., on the occasion of his retirement; and Wesley Durant, Jr.

John J. Mancino.

Resolutions (filed by Mr. McMurtry of Dedham) congratulating John J. Mancino upon his elevation to the rank of Eagle Scout;

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Pedone of Worcester, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Paper from the Senate.

Bethany M. Tsioropoulos,—sick leave bank.

A petition of Stephen A. Baddour and Brian S. Dempsey for legislation to establish a sick leave bank for Bethany M. Tsioropoulos, an employee of the Massachusetts Rehabilitation Commission, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 1922) was referred, in concurrence, to the committee on Public Service.

Report of a Committee.

Michael W. Kaplon,—sick leave bank.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of Harriett L. Stanley and Bruce E. Tarr for legislation to establish a sick leave bank for Michael W. Kaplon, an employee of the Department of Revenue. Under suspension of the rules, on motion of Mr. Pedone of Worcester, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

Orders of the Day.

House bills

Third reading bills.

Authorizing the town of Edgartown to use a certain parcel of conservation land for grass field airport purposes (House, No. 2888);

Relative to the establishment of voting precincts in the town of Harvard (House, No. 3439); and

Relative to the establishment of voting precincts in the town of Lancaster (House, No. 3440);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Northborough,—liquor license.

The House Bill relative to The Shops@20 in the town of Northborough (House, No. 3467), was read a second time; and it was ordered to a third reading.

Recess.

At twenty-one minutes after eleven o'clock A.M., on motion of Mr. Peterson of Grafton (Mr. Kafka of Stoughton being in the Chair), the House recessed until the hour of one o'clock P.M.; and at seven minutes after one o'clock the House was called to order with Mr. Mariano of Quincy in the Chair.

The House Bill relative to the commercial exploitation of people (House, No. 3470), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Human trafficking.

Pending the question on passing the bill to be engrossed, Ms. Malia of Boston and other members of the House moved to amend it by adding the following eleven sections:

“SECTION 5. Chapter 119 of the General Laws is hereby amended by inserting after section 39J the following section:

Section 39K. Definitions, as used in sections 39L through 39M:

(a) The term ‘sexually exploited child’ means any person under the age of 18 who has been subject to sexual exploitation because he or she:

(1) is the victim of the crime of sex trafficking as defined in 22 United States Code 7105

(2) engages in any act as defined in chapter 272 section 53A of the General Laws

(3) is a victim of the crime, whether or not prosecuted, of inducing a minor into prostitution as defined by chapter 272 section 4A of the General Laws

(4) engages in acts or conduct described in chapter 272 section 53(a) of the General Laws.

(b) The term ‘appropriate services’ means the assessment, planning and care provided by a state agency or non-governmental organization or entity, provided however that such agency, organization or entity has expertise in providing services to sexually exploited children in accordance with such regulations that the department of children and families may promulgate or policies of said department. These services may be provided through congregate care facilities, whether publicly or privately funded, emergency residential assessment services, family based foster care or in the community. These services shall include food, clothing, medical care, counseling and appropriate crisis intervention services.

(c) The term ‘advocate’ means an employee of the service providers referred to in section (b) of this section or similar employee of the department of children and families who has been trained to work and advocate for the needs of sexually exploited children.

SECTION 6. Chapter 119 of the General Laws is hereby amended by inserting after section 39K the following section:

Section 39L. In any delinquency or criminal proceeding against a sexually exploited child alleging that the defendant violated section 53(a) or 53A(a) of chapter 272, there shall be a presumption that the matter should be handled instead as a proceeding under section 24 or 39E of chapter 119. Upon the motion of the defendant, or as raised sua sponte by the Court, the Court shall hold a hearing at which the prosecuting district attorney’s office, the defendant, and other agencies or persons with relevant information may be heard to determine whether the matter shall proceed as a delinquency or criminal proceeding, or whether the delinquency or criminal proceeding should be dismissed and in its stead the Court should institute a child in need of services or care and protection petition. The information that the Court should consider in determining whether the presumption is rebutted should include, but not be limited to: whether child has been previously found to have

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committed an offense pursuant to section 53A(a) of chapter 272 or, has been previously convicted or adjudicated delinquent under section 53A(a) of chapter 272 and committed to the department of youth services; or, has previously engaged in conduct that, if proved, would constitute a violation of section 53A of chapter 272; or, has previously refused or been unable to cooperate with services offered under section 51B of chapter 119; and, the Court should consider the child's need for services that may be provided by department of children and families or any non-governmental organization that provides services to such children, and the protection of society from the conduct that forms the basis for the proceeding. Whether to continue with the delinquency or criminal proceeding, or to dismiss said proceeding and proceed with a child in need of services or care and protection proceeding shall be within the court's discretion. The necessary findings of fact to support the decision shall be reduced to writing and made part of the court record. If, during the pendency of a child in need of services or care and protection proceeding initiated under this section, the child is not in substantial compliance with a lawful order of the court, or fails to comply with the guidance and services of the department or any designated non-governmental service provider, the court may, in its discretion, vacate the dismissal of the delinquency or criminal proceeding and restore that proceeding to the docket for trial or further proceedings in accordance with the regular course of such proceedings.

SECTION 7. Chapter 119 of the General Laws is hereby amended by inserting after section 39L the following section:

Section 39M. Services for exploited children

(a) Notwithstanding any inconsistent provision of law, the department of children and families shall promulgate regulations and shall provide for the child welfare services needs of sexually exploited children and to the extent that funds are available ensure appropriate services to serve sexually exploited children are available to children residing in the state at the time they are taken into custody by law enforcement, or are identified by the department of children and families as a sexually exploited child, and for the duration of any legal proceeding or proceeding in which they are either the complaining witness, defendant, or the subject child. Further, a sexually exploited child shall have access to an advocate as defined in section 39K (c). The advocate or a member of the multi-disciplinary service team as referenced in section 51D of chapter 119 shall accompany the child to all court appearances and will serve as a liaison between the service providers and the court.

(b) All of the services created under this article may, to the extent possible provided by law, be available to all sexually exploited children whether they are accessed voluntarily, through a court proceeding under this chapter, or through a referral.

(c) In determining the need for and capacity of the services created under this section, the department of children and families shall recognize that sexually exploited youth have separate and distinct service needs according to gender and, where the department of children and families determines that the need exists, to the extent that funds are available, appropriate services shall be made available, while ensuring that an appropriate continuum of services exists. (d) The commissioner

of the department of children and families may, to the extent that funds are available, in conjunction with local law enforcement officials, contract with appropriate non-governmental organizations or entities with experience working with sexually exploited children to train law enforcement officials who are likely to encounter sexually exploited children in the course of their law enforcement duties on the provisions of this section and how to identify and obtain appropriate services for sexually exploited children. The department of children and families shall assist in obtaining any available funds for the purposes of conducting law enforcement training from the federal justice department and/or the office of juvenile justice and delinquency prevention.

SECTION 8. Chapter 119 section 51A(a), as so appearing, is hereby amended by removing the word 'or' following the words: neglect, including malnutrition; and by inserting the words ': or (iv) being a "sexually exploited child" as defined in section 39K(a) of this chapter' after the following words: physical dependence upon an addictive drug upon birth.

SECTION 9. Chapter 119 section 21, as so appearing, is hereby amended by inserting the words ': or (e) violates the provisions of chapter 272 sections 53A(a); 4A; 53(a) of The General Laws' after the following words: willfully fails to attend school for more than 8 school days in a quarter.

SECTION 10. Chapter 119 section 51B (k) (3), as so appearing, is hereby amended by inserting the words ': or appears to be a "sexually exploited child" as defined in section 39K(a) of this chapter' after the words 'chapter 272;'

SECTION 11. Chapter 119 section 51B (a), as so appearing, is hereby amended by inserting the words 'provided, however, that a report that a child who appears to be a "sexually exploited child" as defined in section 39K(a) of this chapter shall be investigated without regard to whether the child is living with a parent or guardian or other caretaker or not' after the words 'home environment'

SECTION 12. Chapter 119 section 51B (g), as so appearing, is hereby amended by inserting the words 'provided, however, that a child who appears to be a "sexually exploited child" as defined in section 39K(a) of this chapter shall be offered appropriate services to safeguard his or her welfare' after the following words: 'whenever possible.'

SECTION 13. Chapter 119 section 51B (g), as so appearing, is hereby amended by inserting the words 'If the child who appears to be a "sexually exploited child" as defined in section 39K(a) of this chapter shall decline the services, or is unable or unwilling to participate in the services offered, then the department or any person may file a care and protection petition under section 24 or a child in need of services petition.' after the following words: 'section 24.'

SECTION 14. Section 51D of Chapter 119 as so appearing is hereby amended by inserting after the third paragraph the following paragraph:—

For 51A reports specifically involving a sexually exploited child as defined in Section 39K (a), the multi-disciplinary service team shall consist of a team of professionals trained or otherwise experienced and qualified to assess the needs of sexually exploited children. The team

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shall consist of at least the following: a police officer or designee of the Police Department, a representative from the department of children and families, a representative of the appropriate district attorney's office and a social service provider. The team shall also include a medical professional and mental health professional when necessary.

SECTION 15. Section 51D of Chapter 119 as so appearing is hereby amended by inserting after the fifth paragraph the following paragraph:—

For 51B reports specifically involving a sexually exploited child as defined in Section 39K (a), the purpose of the multi-disciplinary service team shall be to determine whether the child has been sexually exploited and to recommend a plan for services to include shelter or placement, mental health and medical care needs, and other social services.”

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in section 1, in lines 55 to 58, inclusive, by striking out the paragraph contained in those lines and inserting in place thereof the following new paragraph:

“Section 52. (a) Whoever, after having been convicted of violation of section 50 or 51, commits a second or subsequent offense under said sections, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years for such sentence. Prosecutions commenced under the section shall not be continued without a finding nor placed on file.”

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in section 4, in line 97, by striking out the figures “19” and inserting in place thereof the figures “21”; and, in line 113, by inserting after the word “designees” the following: “; 1 of whom shall be appointed by the minority leader of the Senate; 1 of whom shall be appointed by the minority leader of the House of Representatives”.

The amendments were adopted.

Mr. Pedone of Worcester then moved to amend the bill in section 3, in line 93, by inserting after the following: “2½ years”, the following: “or by a fine of not more than \$10,000 or by both such imprisonment and fine”.

The amendment was adopted.

After remarks on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays at the request of Mr. O’Flaherty of Chelsea; and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 78 in Supplement.]

Therefore the bill, as amended, was passed to be engrossed. The bill (House, No. 3470, amended) then was sent to the Senate for concurrence.

Bill passed to
be engrossed,—
yea and nay
No. 78.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered. That when the House adjourns today, it adjourn to meet tomorrow at eleven o’clock A.M. Next sitting.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at eight minutes before two o’clock P.M., on motion of Mr. O’Day of West Boylston (Mr. Mariano of Quincy being in the Chair), the House adjourned, to meet the following day at eleven o’clock A.M., in an Informal Session.