

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, August 31, 2006.

Met at two minutes past eleven o'clock A.M.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

Distinguished Guest.

There being no objection, the Chair (Mr. Tolman) introduced Douglas and Nicholas Randall from Marshfield.

Petition.

Mr. Montigny presented a petition (subject to Joint Rule 12) of Mark C. Montigny, Antonio F. D. Cabral, Robert M. Koczera, Stephen R. Canessa and other members of the General Court for legislation relative to the railroad depot contamination remediation and redevelopment project of the city of New Bedford,— and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Reports of Committees.

By Mr. Creedon, for the committee on the Judiciary, on petition (accompanied by bill, Senate, No. 2663), an Order relative to authorizing the joint committee on the Judiciary to make an investigation and study of a certain current Senate document relative to disclosure of information by the media (Senate, No. 2716);

Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

By Ms. Spilka, for the committee on Children and Families, on petition, a Bill birth certificates of certain adopted children (Senate, No. 2664, changed in section 1 by inserting at the end thereof the following words:— “The department shall assist the child in this process.”);

Read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

By Mr. Timilty, for the committee on Municipalities and Regional Government, on petition, a Bill relative to certain conservation land in the town of Amherst (Senate, No. 2711);

Read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 5147) of Douglas W. Petersen (by vote of the town) that the town of Marblehead be authorized to reorganize the water and sewer boards of said town,— **was referred, in concurrence, to the committee on Municipalities and Regional Government.**

Appointments Received from the House.

Notice was received from the House announcing the following appointments:

That Representative Fagan of Taunton and Representative Moran of Brookline had been appointed by the Speaker to the Special Committee (established pursuant to Section 214 of Chapter 6 of the General Laws, in memory of Madeline Amy Sweeney, a victim on American Airlines Flight 11) to select and present an award to citizens of the commonwealth who have displayed extraordinary courage, bravery and heroism without regard for personal safety, in an effort to save the life of another.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:— Resolutions (filed by Messrs. Brewer and Antonioni) “on the ‘Downtown Lower Manhattan’ Poetry Project”; Resolutions (filed by Messrs. Joyce, Antonioni, Augustus, Baddour, Barrios, Berry, Brewer, Brown and Buoniconti, Ms. Chandler, Mr. Creedon, Ms. Fargo, Messrs. Hart, Havern and Hedlund, Ms. Jehlen, Messrs. Knapik, Lees and McGee, Ms. Menard, Messrs. Montigny, Moore and Morrissey, Ms. Murray, Messrs. Nuciforo, O’Leary, Pacheco and Panagiotakos, Ms. Resor, Mr. Rosenberg, Ms. Spilka, Messrs. Tarr, Timilty, Tisei, Tolman and Travaglini, Ms. Tucker, Ms. Walsh and Ms. Wilkerson) “congratulating Reverend Bernard P. McLaughlin upon the occasion of his retirement as Chaplain of the Massachusetts Senate”; and Resolutions (filed by Mr. Travaglini) “congratulating the Massachusetts Rehabilitation Commission on the occasion of its fiftieth anniversary.”

PAPERS FROM THE HOUSE.

Engrossed Bills.

An engrossed Bill relative to the Purple Heart highway in Worcester County (see Senate, No. 1930, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted and was signed by the President and again laid before the Governor for his approbation.

The following engrossed bills (both of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the President and laid before the Governor for his approbation, to wit:

Clarifying the community preservation act (see Senate, No. 167); and

Requiring a disabled commuter representative on regional transit authority advisory boards (see Senate, No. 2509).

Matters Taken Out of the Orders of the Day.

There being no objection, the following matters were taken Out of the Orders of the Day and considered as follows:

The Senate Bill further regulating sewer connections in the town of Charlton (Senate, No. 2445, changed) (its title having been changed by the committee on Bills in the Third Reading), was read a third time and passed to be engrossed. Sent to the House for concurrence.

The Senate Bill further regulating water supply connections in the town of Charlton (Senate, No. 2446) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and passed to be engrossed. Sent to the House for concurrence.**

PAPERS FROM THE HOUSE.

A Bill authorizing the state secretary to place a certain question on the official ballot for the state election to be used in the city of Fall River (House, No. 4874, amended, on petition) [Local approval received],— **was read.**

There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

A Bill relating to the procurement and award of contracts for redeveloping a certain public housing project in the city of Boston (House, No. 5046,— on petition),— **was read.**

There being no objection, the rules were suspended, on motion of Mr. Tolman, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Mr. Tolman in the Chair (having been appointed by the president, under authority conferred by Senate Rule 4, to perform the duties of the Chair), the House Bill increasing the statute of limitations for sexual crimes against children (House, No. 5234),— came from the House with the endorsement that the House had NON-concurred in the Senate amendments in section 6 (as changed by the House committee on Bills in the Third Reading), in paragraph (e), inserting after the first sentence the following two sentences: “The commonwealth shall establish and maintain comparable convalescent or nursing homes, infirmaries, charitable homes for the aged, and intermediate care facilities for the mentally retarded, and rest homes for level 3 sex offenders to be placed in or transferred to for care. Residence in one of these facilities established for level 3 offenders, shall not be a violation of this section.”; striking out section 7 (as changed by the House committee on Bills in the Third Reading) and inserting in place thereof the following two sections:

“SECTION 7. Chapter 127 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following section:—

Section 133D½. Any person under court ordered parole supervision or under community parole supervision for life for any offense listed within the definition of ‘sex offense’, a ‘sex offense involving a child’ or a ‘sexually violent offense’ shall, as a requirement of such parole, wear a global positioning system device, or any comparable device, administered by the board at all times for the length of his parole for any such offense. The board shall, in addition to any other condition, establish defined geographic exclusion zones including, but not limited to, the areas in and around the victim’s residence, place of employment and school and other areas defined to minimize the probationer’s contact with children, if applicable. If the parolee enters an excluded zone, as defined by the terms of his parole, the parolee’s location data shall be immediately transmitted to the police department in the municipality wherein the violation occurred and the board, by telephone, electronic beeper, paging device or other appropriate means. If the board or the parolee’s parole officer believes that the parolee has violated his terms of parole by entering an excluded zone as prescribed in this section, the board or parole office shall cause the parolee to be taken into temporary custody in accordance with section 149A of chapter 127. The fees incurred by installing, maintaining and operating the global position system device, or comparable device, shall be paid by the parolee. If a parolee establishes his inability to pay such fees, the board may waive them.

SECTION 7A. Chapter 265 of the General Laws is hereby amended by adding the following section:—

Section 47. Any person who is placed on probation for any offense listed within the definition of ‘sex offense’, a ‘sex offense involving a child’ or a ‘sexually violent offense’, as defined in section 178C of chapter 6, shall, as a requirement of any term of probation, wear a global positioning system device, or any comparable device, administered by the commissioner of probation, at all times for the length of his probation for any such offense. The commissioner of probation, in addition to any other conditions, shall establish defined geographic exclusion zones including, but not limited to, the areas in and around the victim’s residence, place of employment and school and other areas defined to minimize the probationer’s contact with children, if applicable. If the probationer enters an excluded zone, as defined by the terms of his probation, the probationer’s location data shall be immediately transmitted to the police department in the municipality wherein the violation occurred and the commissioner of probation, by telephone, electronic beeper, paging device or other appropriate means. If the commissioner or the probationer’s probation officer has probable cause to believe that the probationer has violated this term of his probation, the commissioner or the probationer’s probation officer shall arrest the probationer pursuant to section 3 of chapter 279. Otherwise, the commissioner shall cause a notice of surrender to be issued to such probationer.

The fees incurred by installing, maintaining and operating the global position system device, or comparable device, shall be paid by the probationer. If an offender establishes his inability to pay such fees, the court may waive them.”; in section 8 (as changed by the House committee on Bills in the Third Reading) by striking out “An indictment or complaint for an offense set forth in section 13B, 13F, 22A, 23 or 24B of chapter 265” and inserting in place thereof the following: “An indictment or complaint for an offense set forth in section 13B, 13F, 13L, 22A, 23 or 24B of chapter 265”; and inserting after section 9 (as changed by the House committee on Bills in the Third Reading) the following section:

“SECTION 9A. The second paragraph of said section 63 of said chapter 277, as so appearing, is hereby further amended by adding the following sentence:— The period of limitation for a prosecution for any such offense shall not commence during any period: (1) during which the victim refrains from disclosing the offense to law enforcement authorities as a result of threats of physical harm directed at the victim or at another member of the victim’s immediate family; (2) during which the victim refrains from disclosing the abuse to law enforcement authorities as a result of a physical or psychological condition caused by the abuse, which would cause an objectively reasonable person to fail to recognize the causal connection between the abuse and the injury it caused; and (3) during which the defendant caused a material witness or material evidence to be out of the commonwealth or otherwise unavailable to law enforcement authorities shall not commence.”.

There being no objection, the rules were suspended, on motion of Mr. Moore, and the matter was considered forthwith. On motion of Mr. Hedlund, the Senate receded from its amendment in section 6 and insisted on its amendments in sections 7, 7A, 8 and 9A.

The bill was returned to the House endorsed accordingly.

Reports of a Committee.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill establishing a sick leave bank for a certain employee of the Department of Social Services (Senate, No. 2665),— ought to pass, with an amendment striking out, in the second sentence, the words “department of correction” and inserting in place thereof the following words:— “department of social services”; and by adding the following sentence:— “Whenever Patricia Miller terminates employment with the department or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the extended illness leave bank.”. There being no objection, the rules were suspended, on motion of Ms. Resor, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2665, amended) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

By Ms. Murray, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Kathreen Tessier, an employee of the Department of Revenue (House, No. 5038),— **ought to pass.**

There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

By Ms. Murray, for the committee on Ways and Means, that the House Bill relative to the Massachusetts Insurers insolvency Fund (House, No. 5216),— ought to pass, with an amendment in section 2, by striking out, in lines 11, 13, 14, 17, 22, 24, 28, 34, and 43, the word “association”, each time it appears, and inserting in place thereof, in each instance the following word:— “Fund” ; and with a further amendment, in said section 2, by inserting after the word “other”, in line 28, the following words:— “state guaranty association or”.

There being no objection, the rules were suspended, on motion of Mr. Hedlund, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence.

By Ms. Murray, for the committee on Ways and Means, that the House Bill relative to health care access (House, No. 5240),— ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2717.

There being no objection, the rules were suspended, on motion of Mr. Moore, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

PAPERS FROM THE HOUSE.

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill relative to the economic development of the Commonwealth (see House, No. 5253, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted, in concurrence, by a vote of 3 to 0.

The bill was signed by the President and sent to the House for enactment.

Subsequently, the bill, which originated in the House, came from the House with the endorsement that it had been enacted in that branch.

The Senate then passed the bill to be enacted; and it was signed by the Acting President (Mr. Tolman) and laid before the Governor for his approbation.

Order Adopted.

On motion of Mr. Moore,—

Ordered, That when the Senate adjourns today, it adjourn to meet again on Tuesday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

Adjournment in Memory of Julie Betzger.

The Senator from Suffolk and Middlesex, Mr. Travaglini and the Senator from Norfolk and Plymouth, Mr. Morrissey presented a request that when the Senate adjourns today, it do so as a mark of respect to the memory of Julie Betzger.

Julie was the Clerk of the Senate Committee on Bills in the Third Reading and chief administrative assistant in the Counsel's office. She passed away last night after a long and courageous struggle with cancer. Julie worked in the Counsel's office since 1978. Her colleagues in the Senate will always remember her as a model public servant, a wonderful human being, and a great friend. May she rest in peace.

Accordingly, as a mark of respect to the memory of Julie Betzger, at twelve minutes before twelve o'clock noon on motion of Mr. Hedlund, the Senate adjourned to meet again on Tuesday next at eleven o'clock A.M.