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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, November 10, 2011.

Met at five minutes past one o'clock A.M. (Mr. Baddour in the Chair).

Communication.

A communication from the Martin J. Benison, Comptroller, submitting a transfer schedule for Item 1599-6152 – Executive Office for Administration and Finance – State Retiree Benefits Trust Fund (pursuant to Section 2E of Chapter 68 of the Acts of 2011) (received in the Office of the Clerk of the Senate on Monday, November 7, 2011 at twelve o'clock noon),-- **was placed on file.**

Reports of Committees.

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill relative to surgical technology (Senate, No. 1069),-- **ought to pass, with an amendment substituting a new draft entitled "An Act regulating surgical technology" (Senate, No. 2058);**

Under Senate Rule 26, referred to the committee on Ethics and Rules

By Ms. Jehlen, for the committee on Elder Affairs, on petition, a Bill creating a special commission on institutional long term care services (Senate, No. 267);

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

By Ms. Jehlen, for the committee on Elder Affairs, on petition, a Bill promoting the development of small house nursing homes in Massachusetts (Senate, No. 272); and

By Mr. Keenan, for the committee on Mental Health and Substance Abuse, on petition, a Bill relative to civil commitment for alcoholism or substance abuse at certain facilities (Senate, No. 989);

Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Ms. Clark, for the committee on Public Service, on petition, a Bill relative to creditable service for teachers (Senate, No. 1332); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1329), a Bill to restore collective bargaining rights for employees of the MBTA (Senate, No. 2056);

Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

PAPERS FROM THE HOUSE.

A Bill relative to the terms of collective bargaining agreements (House, No. 3789,-- on Senate, No. 1404 and House, No. 1654),-- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

There being no objection, at six minutes past one o'clock P.M., the Chair (Mr. Baddour) declared a recess, subject to the call of the Chair; and, at nineteen minutes before two o'clock P.M., the Senate reassembled, the President in the Chair.

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

Resolutions.

The following resolutions (having been filed with the Clerk) were considered forthwith and adopted, as follows:-

Resolutions (filed by Ms. Fargo, Messrs. Brewer and Eldridge, Ms. Flanagan, Ms. Jehlen, Messrs. Michael O. Moore, Richard T. Moore, Rush and Tarr) "memorializing the Congress of the United States to enact legislation encouraging the observance of a 2-minute moment of silence to honor the service and sacrifice of all veterans of the United States Armed Forces."

Reports of Committees.

By Mr. DiDomenico, for the committee on Community Development and Small Business, on petition, a Bill relative to the Sandwich Economic Initiative Corporation (Senate, No. 1928) [Local approval received].

There being no objection, the rules were suspended, on motion of Ms. Flanagan, and the bill was read second time, ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Shaun T. Sawyer, an employee of the Department of Developmental Services (House, No. 3701),-- ought to pass, with an amendment striking out, in lines 2 and 4, the word "Shaun" and inserting in place thereof, in each instance, the following word:- "Saun"; and by striking out the title, and inserting in place thereof the following title:- "An Act establishing a sick leave bank for Saun T. Sawyer, an employee of the Department of Developmental Services".

There being no objection, the rules were suspended, on motion of Mr. Brewer, 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.

PAPER FROM THE HOUSE.

A petition (accompanied by bill, House, No. 3799) of Alice Hanlon Peisch for legislation to establish a sick leave bank for Thomas Riffin, an employee of the Department of Mental Health,-- **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Public Service.**

Matter Taken Out of the Notice Section of the Calendar.

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered, as follows:

The Senate Bill amending the charter of the town of Winchendon (Senate, No. 1966),-- **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

Orders of the Day.

The Orders of the Day were considered, as follows:

The House Bill relative to the granting of club and special licenses for the sale of alcoholic beverages in the town of Weston (House, No. 3459),-- **was read a second time and ordered to a third reading.**

The Senate Bill relative to the parole board (Senate, No. 728),-- **was read a second time.**

Mr. Hart in the Chair, after remarks and pending the question on adoption of the amendment previously recommended by the committee on Ways and Means that the bill be amended by substituting a new draft entitled "An Act relative to habitual offenders, sentencing and improving law enforcement tools" (Senate, No. 2054) and pending the main question on ordering the bill to a third reading, Messrs. Michael Moore and Tarr moved that the bill be amended in section 46, in subsection (d) of proposed section 25 of chapter 275 of the General Laws by adding the following sentence:- "No otherwise valid plea or conviction shall be vacated based upon the failure to give such warnings."

The amendment was adopted.

Messrs. Donnelly, Kennedy, Michael O. Moore and DiDomenico, Ms. Spilka, Ms. Flanagan, Mr. Wolf and Ms. Chang-Diaz moved that the bill be amended by inserting after section 20 the following section:

“SECTION 20A. Section 32H of said chapter 94C, as so appearing, is hereby amended by striking out, in line 28, the word “or”; and by inserting, in line 29, after the figure “127”, the following words:- ; or (4) to engage in employment under a work release program under sections 49, 49A, 86F or 86G of chapter 127.”

After remarks, the amendment was **adopted**.

Ms. Chandler and Ms. Creem moved that the bill be amended by inserting, after section 4, the following section:

“SECTION 4A. Paragraph 2 of section 4 of chapter 27 of the General Laws, as so appearing, is hereby amended by inserting, after the third sentence, the following sentence:- At least 1 person on said list shall be a professional with not less than 5 years of experience and training in adolescent development and psychology, and shall be selected from a list of proposed nominees provided by the following organizations: the Massachusetts Chapter, American Academy of Pediatrics, Inc.; the New England Council of Child and Adolescent Psychiatry, Inc.; the Massachusetts Psychological Association, Inc.; and the Massachusetts Psychiatric Society, Inc..”

After remarks, the amendment was **adopted**.

Ms. Creem moved that the bill be amended be amended in section 27 by inserting, at the end thereof, the following:- “In making this determination, the board shall not consider the availability of post-release supervision as authorized under chapter 127A.”

The amendment was *rejected*.

Ms. Creem, Ms. Jehlen and Ms. Chang-Diaz moved that the bill be amended by striking section 41; and in the second paragraph of section 43, by striking the words “any violation”, and inserting in place thereof the following words:- “a violation of section 32E”.

The amendment was *rejected*.

Ms. Creem moved that the bill be amended in section 1 by inserting, after the words “to the department”, the following words:- “, and written notification to the offender,”; and, in section 4, by striking the word “fails” and inserting in place thereof the following words:- “willfully fails”.

The amendment was *rejected*.

Ms. Creem moved that the bill be amended be amended by the addition of the following sections at the end thereof:

“SECTION __. Section 4 of chapter 27 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 2, the word ‘seven’ and inserting in place thereof the following word:— ‘15’.”

The amendment was *rejected*.

Messrs. Ross, Tarr and Michael O. Moore moved that the bill be amended by inserting, after section XX, the following new sections:-

“SECTION XX. Section 178E of chapter 6 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, in line 45, after the words ‘mailed to the board.’, the following:

The board shall notify the sex offender and the local police department in the city or town in which such sex offender lives or intends to live, or if such sex offender does not reside in the commonwealth, in the city or town in which such sex offender has a secondary address, works or attends an institution of higher learning, that the offender must report in person to that police department, within 2 days of release from custody, to register.

SECTION XX. Section 178F½ of chapter 6 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, in line 1, before the words ‘A sex offender’, the following: An incarcerated sex offender finally classified by the board as a level 2 or a level 3 sex offender who is required to register pursuant to sections 178C to 178P, inclusive, shall appear in person within 2 days of release from custody at the local police department in the city or town in which such sex offender lives, or if such sex offender does not reside in the commonwealth, in the city or town in which such sex offender has a secondary address, works or attends an institution of higher learning, to register.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at a half past two o’clock P.M., on motion of Mr. Ross, as follows, to wit (yeas 35 – nays 0) [Yeas and Nays No. 111]:

YEAS

Baddour, Steven A. Joyce, Brian A.
Brewer, Stephen M. Keenan, John F.
Candaras, Gale D. Kennedy, Thomas P.
Chandler, Harriette L. Knapik, Michael R.
Chang-Diaz, Sonia McGee, Thomas M.
Clark, Katherine M. Montigny, Mark C.
Creem, Cynthia Stone Moore, Michael O.
DiDomenico, Sal N. Moore, Richard T.
Donnelly, Kenneth J. Pacheco, Marc R.

Donoghue, Eileen M. Petruccelli, Anthony
Downing, Benjamin B. Rodrigues, Michael J.
Eldridge, James B. Ross, Richard J.
Fargo, Susan C. Spilka, Karen E.
Finegold, Barry R. Tarr, Bruce E.
Flanagan, Jennifer L. Timilty, James E.
Hart, John A., Jr. Welch, James T.
Hedlund, Robert L. Wolf, Daniel A. — 35.
Jehlen, Patricia D.
NAYS — 0.
ABSENT OR NOT VOTING
Berry, Frederick E. Rush, Michael F. — 3.
Rosenberg, Stanley C.

The yeas and nays having been completed at twenty-seven minutes before three o'clock P.M., the amendment was adopted.

Mr. Ross moved that the bill be amended by inserting after section 49, the following section:-

“SECTION 49A. Each member appointed to the parole board shall complete a comprehensive training course within 90 days of said appointment.

(1) The department of correction shall develop the comprehensive training course using training components consistent with those offered by the National Institute of Corrections or the American Probation and Parole Association.

(2) Each member of the parole board shall complete a minimum of 8 hours of training annually.”

After remarks, the amendment was adopted.

Mr. Ross moved that the bill be amended by inserting, in line 130, after the word “facility”, the following words:- “and a physician not affiliated with the Department of Corrections”; and by striking, in line 130, the word “certifies” and inserting in place thereof, the following word:- “certify”.

The amendment was rejected.

Mr. Ross moved that the bill be amended by inserting, after section XX, the following new section:-

“SECTION XX. Programs under the jurisdiction of the Massachusetts Department of Corrections receiving state moneys shall employ evidence-based practices in delivery and design of such programs.

(1) As used in this section, the following terms shall have the following meanings:

‘Agency’ means the Department of Corrections

‘Program’ means a treatment or intervention program or service that is intended to:

(a) Reduce the propensity of a person to commit crimes;

(b) Improve the mental health of a person with the result of reducing the likelihood that the person will commit a crime or need emergency mental health services; or

(c) Reduce the propensity of a person who is less than 18 years of age to engage in antisocial behavior with the result of reducing the likelihood that the person will become a juvenile offender

‘Evidence-based practices’ means supervision policies, procedures, programs and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or post-release supervision

‘Scientifically based research’ means research that obtains reliable and valid knowledge by:

(a) Employing systematic, empirical methods that draw on observation or experiment;

(b) Involving rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn; and

(c) Relying on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations and across studies by the same or different investigators

(2) By December 1 of each year, beginning in 2012, the agency shall submit to the Governor, the General Court, and the Secretary of the Executive Office of Public Safety a comprehensive report on its efforts to implement evidence-based practices to reduce recidivism. The report shall include at a minimum:

An assessment of each program on which the agency expends funds including but not limited to whether the program is an evidence-based program;

The percentage of state moneys the agency receives for programs that is being expended on programs that are evidence-based, and a list of all programs with identification of which are evidence-based;

A description of the efforts the agency is making to meet the requirements of this section including but not limited to specification of supervision policies, procedures, programs and practices that were created, modified, or eliminated;

The department shall make the full report and an executive summary available to the general public on its Web site

The percentage of individuals receiving services from those programs utilizing evidence-based practices;

(3) The agency may adopt rules necessary to carry out the provisions of this section.”

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended in Section 28, by inserting after the word “internet”, the following words:- “provided, however, that if not practicable, the board makes available on the internet the reasons it was not practicable”.

After remarks, the amendment was adopted.

Mr. Eldridge and Ms. Chang-Diaz moved that the bill be amended by adding the following sections at the end thereof:

“SECTION __. Subsection (c) of section 32 of chapter 94C of the General Laws, as most recently amended by section 67 of chapter 256 of the acts of 2010, is hereby further amended by inserting after the words ‘after serving’, the following words:- two-thirds of the minimum term of the sentence if the sentence is to a state prison or after serving.

SECTION __. Subsection (e) of section 32A of said chapter 94C, as most recently amended by section 68 of said chapter 256, is hereby further amended by inserting after the words ‘after serving’, the following words:- two-thirds of the minimum term of the sentence if the sentence is to a state prison or after serving.

SECTION __. Subsection (c) of section 32B of said chapter 94C, as most recently amended by section 69 of said chapter 256, is hereby further amended by inserting after the words ‘after serving’, the following words:- two-thirds of the minimum term of the sentence if the sentence is to a state prison or after serving.

SECTION __. Subsection (d) of section 32E of said chapter 94C, as most recently amended by section 70 of said chapter 256, is hereby further amended by inserting after the words ‘after serving’, the following words:- two-thirds of the minimum term of the sentence if the sentence is to a state prison or after serving.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at seven minutes before three o’clock P.M., on motion of Mr. Eldridge, as follows, to wit (yeas 7 – nays 28) [Yeas and Nays No. 112]:

YEAS.

Chang-Diaz, Sonia Jehlen, Patricia D.

Creem, Cynthia Stone McGee, Thomas M.

Donnelly, Kenneth J. Wolf, Daniel A. — 7.

Eldridge, James B.

NAYS

Baddour, Steven A. Keenan, John F.

Brewer, Stephen M. Kennedy, Thomas P.

Candaras, Gale D. Knapik, Michael R.

Chandler, Harriette L. Montigny, Mark C.

Clark, Katherine M. Moore, Michael O.

DiDomenico, Sal N. Moore, Richard T.

Donoghue, Eileen M. Pacheco, Marc R.

Downing, Benjamin B. Petruccelli, Anthony

Fargo, Susan C. Rodrigues, Michael J.

Finegold, Barry R. Ross, Richard J.

Flanagan, Jennifer L. Spilka, Karen E.

Hart, John A., Jr. Tarr, Bruce E.

Hedlund, Robert L. Timilty, James E

Joyce, Brian A. Welch, James T.— 28.

ABSENT OR NOT VOTING

Berry, Frederick E. Rush, Michael F. — 3.

Rosenberg, Stanley C.

The President in the Chair, the yeas and nays having been completed at four minutes before three o’clock P.M., the amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting at the end thereof the following new section:-

“SECTION __. Section 4 of Chapter 27 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word ‘aforesaid’ in line 32, the following words:-‘the governor shall certify in writing the specific reasons a panel was not utilized, specifying why it is in the best interest of justice not to convene the panel and’.”

After remarks, the amendment was rejected.

Ms. Clark and Mr. Montigny moved that the bill be amended by inserting after Section __, the following section:-

“SECTION __. When issuing a temporary or permanent vacate, stay away, restraining or no contact order or judgment issued pursuant to sections 18, 34B or 34C of chapter 208; section 32 of chapter 209; sections 3, 4 or 5 of chapter 209A; section 15 or 20 of chapter 209C; or sections 3, 4, 5, 6, or 7 of chapter 258E; or a temporary restraining order or preliminary or permanent injunction issued by the superior court the court may order the possession, care and control of any animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household to the plaintiff. The court may order the defendant to refrain from abusing, threatening, taking, interfering with, transferring, encumbering, concealing, harming, or otherwise disposing of the animal.

A person, who qualifies, may petition the court pursuant to sections 18, 34B or 34C of chapter 208; section 32 of chapter 209; sections 3, 4 or 5 of chapter 209A; section 15 or 20 of chapter 209C; or sections 3, 4, 5, 6, or 7 of chapter 258E for an order that the defendant refrain from abusing, threatening, taking, interfering with, transferring, encumbering, concealing, harming, or otherwise disposing of the animal.

The chief justice of administration and management shall amend the relevant complaint forms for chapters 208, 209A, 209C and 258E or shall adopt a form complaint for use under this chapter which shall be in such form and language to permit a plaintiff to prepare and file such complaint pro se.

In all instances where an outstanding warrant exists or a violation of a temporary or permanent vacate, stay away, restraining or no contact order or judgment issued pursuant to sections 18, 34B or 34C of chapter 208; section 32 of chapter 209; sections 3, 4 or 5 of chapter 209A; section 15 or 20 of chapter 209C; or sections 3, 4, 5, 6, or 7 of chapter 258E a judge shall make a finding, based upon all of the circumstances, as to whether an imminent threat of bodily injury exists to the petitioner or to a domesticated animal. In all instances where such an imminent threat of bodily injury to a human being or a domesticated animal is found to exist, the judge shall notify the appropriate law enforcement officials of such finding and such officials shall take all necessary actions to execute any such outstanding warrant as soon as is practicable.”

After remarks, the amendment was adopted.

Messrs. Michael O. Moore and Donnelly moved that the bill be amended by inserting after section 34 the following section:-

“SECTION 34A. Whoever commits an offense set forth in section 13D of chapter 265 of the General Laws, if the offense includes the attempt to disarm a police officer in the performance of the officer’s duty, shall be punished by imprisonment in the state prison for not more than 10 years, or by a fine of not more than \$1,000 and imprisonment in a jail or house of correction for not more than 2½ years.”

The amendment was adopted.

Mr. Eldridge, Ms. Jehlen and Ms. Chang-Diaz moved that the bill be amended in section 21 by striking out the number, “500” and inserting in place thereof the number: - “250”.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at seventeen minutes past four o’clock P.M., on motion of Mr. Eldridge, as follows, to wit (yeas 6 – nays 29) [Yeas and Nays No. 113]:

YEAS.

Chang-Diaz, Sonia Jehlen, Patricia D.
Creem, Cynthia Stone McGee, Thomas M.
Eldridge, James B. Wolf, Daniel A. — 6.

NAYS

Baddour, Steven A. Keenan, John F.
Brewer, Stephen M. Kennedy, Thomas P.
Candaras, Gale D. Knapik, Michael R.
Chandler, Harriette L. Montigny, Mark C.
Clark, Katherine M. Moore, Michael O.
DiDomenico, Sal N. Moore, Richard T.
Donnelly, Kenneth J. Pacheco, Marc R.
Donoghue, Eileen M. Petrucci, Anthony
Downing, Benjamin B. Rodrigues, Michael J.
Fargo, Susan C. Ross, Richard J.
Finegold, Barry R. Spilka, Karen E.
Flanagan, Jennifer L. Tarr, Bruce E.
Hart, John A., Jr. Timilty, James E
Hedlund, Robert L. Welch, James T. — 29.

Joyce, Brian A.

ABSENT OR NOT VOTING

Berry, Frederick E. Rush, Michael F. — 3.
Rosenberg, Stanley C.

The yeas and nays having been completed at twenty-one minutes past three o’clock P.M., the amendment was rejected.

Ms. Clark and Ms. Chang-Diaz moved that the bill be amended by inserting after section 6 the following new section:

“SECTION 6A. Subsection (c) of section 32 of chapter 94C of the General Laws, as so appearing, is hereby amended by inserting, in lines 23 and 24, after the words ‘house of corrections’ the following words:- and after serving two-thirds of the maximum term of the sentence if the sentence is to the department of corrections or state prison.”;

By inserting after section 8 the following new section:

“SECTION 8A. Subsection (e) of section 32A of chapter 94C of the General Laws, as so appearing, is hereby amended by inserting, in line 48, after the words ‘house of corrections’ the following words:- and after serving two-thirds of the maximum term of the sentence if the sentence is to the department of corrections or state prison.”;

By inserting after section 10 the following new section:

“SECTION 10A. Subsection (c) of section 32B of chapter 94C of the General Laws, as so appearing, is hereby amended by inserting, in line 24, after the words ‘house of corrections’ the following words:- and after serving two-thirds of the maximum term of the sentence if the sentence is to the department of corrections or state prison.”;

By inserting after section 20 the following new section:

“SECTION 20A. Subsection (d) of section 32E of chapter 94C of the General Laws, as so appearing, is hereby amended by inserting, in line 119, after the words ‘house of corrections’ the following words:- and after serving two-thirds of the maximum term of the sentence if the sentence is to the department of corrections or state prison.”

By inserting after section 21 the following new section:

“SECTION 21A. Section 32J of chapter 94C is hereby amended by inserting, in line 24, after the words ‘house of corrections’ the

following words:- and after serving two-thirds of the maximum term of the sentence if the sentence is to the department of corrections or state prison.”; and

By inserting after section 51 the following new section:

“SECTION 52. Notwithstanding the provisions of sections 32, 32A, 32B, 32E, 32H and 32J of chapter 94C of the General Laws, or any other general or special law to the contrary, a person serving a mandatory minimum sentence in state prison for violating any provision of the above-referenced sections as of the effective date of this act, shall be eligible for parole after serving two-thirds of the maximum term of the sentence, provided, however, that said person shall not be eligible for parole if, in connection with the offense, the person was convicted of a crime that has an element the use or attempted use of violence or threats of violence or possession of a firearm, rifle, shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269 or the person was convicted of the commission or attempted commission of an offense set forth in section 32F or section 32K of chapter 94C or the person was convicted of a trafficking offense as set forth in section 32E of chapter 94C or the person engaged in a course conduct whereby he directed the activities of another who committed any felony in violation of chapter 94C.”

At twenty-five minutes before four o’clock P.M., Ms. Chang-Diaz doubted the presence of a quorum; but a quorum was declared present.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-four minutes before four o’clock P.M., on motion of Ms. Clark, as follows, to wit (yeas 11 – nays 24) [Yeas and Nays No. 113]:

YEAS.

Chang-Diaz, Sonia Eldridge, James B.

Clark, Katherine M. Fargo, Susan C.

Creem, Cynthia Stone Jehlen, Patricia D.

DiDomenico, Sal N. McGee, Thomas M.

Donnelly, Kenneth J. Wolf, Daniel A. — 11

Donoghue, Eileen M. .

NAYS

Baddour, Steven A. Knapik, Michael R.

Brewer, Stephen M. Montigny, Mark C.

Candaras, Gale D. Moore, Michael O.

Chandler, Harriette L. Moore, Richard T.

Downing, Benjamin B. Pacheco, Marc R.

Finegold, Barry R. Petrucci, Anthony

Flanagan, Jennifer L. Rodrigues, Michael J.

Hart, John A., Jr. Ross, Richard J.

Hedlund, Robert L. Spilka, Karen E.

Joyce, Brian A. Tarr, Bruce E.

Keenan, John F. Timilty, James E

Kennedy, Thomas P. Welch, James T.— 24.

ABSENT OR NOT VOTING

Berry, Frederick E. Rush, Michael F. — 3.

Rosenberg, Stanley C.

The yeas and nays having been completed at twenty minutes before four o’clock P.M., the amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by striking in Section 36, proposed section 15E(a) of chapter 269 of the General Laws, and replacing it with the following subsection:-

“(a) Whoever commits an assault upon another by intentionally brandishing a firearm, large capacity weapon, rifle, shotgun, sawed-off shotgun, machine gun or assault weapon, as defined in section 121 of chapter 140, shall be punished by imprisonment in the state prison for not more than 10 years or by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$5,000, or by both such fine and imprisonment. For the purposes of this subsection, ‘brandishing’ shall mean exhibiting or exposing in an ostentatious, shameless or aggressive manner.”

The amendment was adopted.

Mr. Baddour moved that the bill be amended by striking out Section 42 and inserting in place thereof the following section:-

“SECTION 42. Said section 99 of said chapter 272, as so appearing, is hereby further amended by striking out the definition of ‘wire communication’ and inserting in place thereof the following definition:-

1. The term ‘wire communication’ means any transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception, including the use of such connection in a switching station, furnished or operated by any person engaged in providing or operating such facilities for the transmission of such communications and shall include: any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, but shall not include: (i) any communication made through a tone-only paging device; (ii) any communication from a tracking device, defined as an electronic or mechanical device which permits the tracking of the movement of a person or object; or (iii) electronic funds transfer information stored by a financial institution in a

communications system used for the electronic storage and transfer of funds.”

The amendment was adopted.

Messrs. Tarr, Hedlund, Knapik Ross and Rodrigues moved that the bill be amended by inserting, in line 423, after the word “Whoever”, the following words:- “unless lawfully permitted under statute to possess or control”.

The amendment was adopted.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting at the end thereof the following new section:-

“SECTION __. A special commission is hereby established for the purposes of making an investigation and study relative to the feasibility, cost, and effects of adopting the federal parole structure and credit toward early release program, as codified in the Sentencing Reform Act of 1984, P.L. No. 98-473, 98 Stat. 1987. The commission shall consist of: 9 members, one of whom shall be the secretary of the executive office of public safety and security, who shall act as commissioner, 2 members to be chosen by the governor, which members shall first be nominated by the Massachusetts Chiefs of Police Association and the Massachusetts District Attorney Association, 2 members to be chosen by the president of the senate, 2 members to be chosen by the speaker of the house, 1 member to be chosen by the minority leader of the senate, and 1 member to be chosen by the minority leader of the house.

All appointments shall be made not later than 30 days after the effective date of this act. The chairperson shall meet with the commission not later than 60 days after the effective date of this act.

Members shall not receive compensation for their services but may receive reimbursement for the reasonable expenses incurred in carrying out their responsibilities as members of the commission.

Not later than November 1, 2012, the commission shall report to the general court the result of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerk of the house of representatives who shall forward the same to the joint committee on the judiciary.”

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by striking section 24 in its entirety and replacing it with the following new Section:-

“SECTION 24. Section 129D of chapter 127 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the words ‘superintendent of the institution’, in line 10, the following words:- “with the prior approval of the commissioner,.’”; and by striking out, in line 14, the words “two and one-half” and inserting in place thereof the following figure:- “5”.

After remarks, the amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended in section 46, in proposed section 25(b) of Chapter 279, by inserting at the end thereof the following sentence:- “A sentence imposed under this section shall run from and after any sentence the defendant is serving at the time of sentencing.”

After remarks, the amendment was adopted.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by striking section 23 in its entirety.

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting, after the words “the decision”, in line 189, the following words:- “, including written certification that each board member voting on the issue of granting a parole permit has reviewed the entire criminal record of the applicant,”.

After remarks, the amendment was adopted.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by striking section 21 in its entirety.

After remarks, the amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by striking section 49 in its entirety.

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik, Richard T. Moore, Ross, Rodrigues and Michael O. Moore moved that the bill be amended by inserting at the end thereof the following new section:-

“SECTION __. Section 8A of chapter 278 of the General Laws, as appearing in the 2010 official edition, is hereby amended by inserting, at the end thereof, the following sentence:- An act of lawful defense under this section shall not be cause for arrest or prosecution nor for the revocation of a license issued under sections 122, 123, 129B or 131 of Chapter 140.”

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by striking the second sentence of Section 29 and inserting in place thereof the following sentence:- “The parole board may, within 60 days before the expiration of such minimum term, conduct a hearing, which shall be public and before the full membership unless a member of the board is determined to be unavailable as provided in this section.”; and by striking, in line 213, the word “shall” and inserting in place thereof following the word:- “may”.

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended in section 45, in line 467, by striking the figure “15” and inserting in place thereof the figure “20”.

After remarks, the amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting at the end thereof the following new section:-

“SECTION __. Section 4 of Chapter 27 of the General Laws, as appearing the 2010 Official Edition, is hereby amended by

inserting at the end of the first paragraph the following sentence:- No member may serve more than two consecutive terms nor more than ten consecutive years on the parole board."

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting at the end thereof the following new section:-

"SECTION __. Section 4 of Chapter 27 of the General Laws, as appearing the 2010 Official Edition, is hereby amended by inserting at the end of the first paragraph the following sentence:- The governor may, with the advice and consent of the council, remove members from the board for cause, upon a written certification of such cause, provided that such member shall have the right to notice and the opportunity for a public hearing before the council relative to such removal."

The amendment was adopted.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by striking Sections 6-13, inclusive, Section 16-17, inclusive, and Sections 19-20, inclusive; by striking, in Section 14, the figure "2" each time it appears, and inserting in place thereof the following figure:- "3"; by striking, in Section 15, the figure "3½" each time it appears, and inserting in place thereof the following figure:- "5"; by striking, in Section 18, in paragraph (1), the figure "3½" each time it appears, and inserting in place thereof the following figure:- "5"; and in said section 18 by striking, in paragraph (2), the figure "5" each time it appears, and inserting in place thereof the following figure:- "7".

The amendment was rejected.

Messrs. Tarr, Hedlund, Knapik moved that the bill be amended by inserting after section 30, the following section:-

"SECTION 30A. Section 133A of said chapter 127, as so appearing, is hereby amended by inserting after the word 'procedure', in line 28, the following words:- 'provided, however, that no hearing shall take place until the parole board has certified in writing that it has complied with the notification requirements of this paragraph, a copy of which shall be included in the record of such proceeding; and provided further, that this paragraph shall also apply to any parole hearing for an applicant who was convicted of a crime under clause (i) of subsection (b) of section 25 of chapter 279 and sentenced and committed to prison for 5 or more years for such crime and does not show that a pardon has been issued for the crime'."

The amendment was adopted.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by striking Sections 24, 25, and 26 from the bill in their entirety.

The amendment was rejected.

Mr. Ross moved that the bill be amended by inserting, after section XX, the following section:-

"SECTION XX. There shall be a commission established to study the development of a prioritization system for the sex offender registry board to utilize in conducting the classification process. The commission shall be comprised of 1 member of the sex offender registry board, who shall be the chair, 1 member of the Massachusetts district attorneys association, and 5 members who shall be selected by the governor, at least 2 of whom shall be advocates for victims of sexual abuse.

The commission shall evaluate various crimes for which an individual may be required to register, the frequency of re-offense under various crimes and the danger that is posed to the community by perpetrators of the various crimes for which an individual may be required to register. The commission shall also evaluate the needs of prisoners to be classified and the effect that it may have on their ability to re-enter society.

The commission shall make its written recommendations to the sex offender registry board and shall also deliver the recommendations to the house and senate chairs of the joint committee on the judiciary by May 1, 2012."

The amendment was adopted.

Mr. Keenan moved that the bill be amended in section 34, by adding the following section after section 5:-

"Section Within 120 days of the passage of this act, the department of correction shall prepare a report which identifies individuals who shall be eligible for probation, parole, work release and deductions in sentences for good conduct pursuant to section 49 of this act, with said report to include, among other things, (a) an anticipated schedule of probation, parole, work release and release for each individual, (b) a listing of job training, mental health, substance abuse and recovery-based programs, education programs and any and all other programs in which the individual participated during the individual's most recent incarceration, and (c), a plan for each individual that will, beyond the provisions of section 34 of this act relative to mandatory post-release supervision, best provide for the successful re-entry of each individual, with said plan to include, among other things, job training, mental health, substance abuse and recovery-based programs, and education programs. The report shall be submitted to the chairman of the parole board, the executive office of administration and finance, and the chairs of the house ways and means committee, senate ways and means committee, the joint committee on public safety and the joint committee on mental health and substance abuse. For those individuals identified in accordance with this section, any mandatory post-release supervision required under section 2 of chapter 127 shall include the plan required under this section."

After remarks, the amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended in Section 46, in proposed Section 25(b) of Chapter 279, by striking the following language:- "(iii) has been sentenced to incarceration for at least 1 day to be served for each of the prior 2 convictions;"; and by striking, in line 487, the term "(iv)" and replacing it with the following term:- (iii)".

After remarks, the amendment was rejected.

Mr. Keenan moved that the bill be amended in Section 34, by adding the following section after section 5:-

"Section __. Within 180 days of the passage of this act, the parole board, in conjunction with the department of correction, the department of mental health and the department of public health shall provide a report to include, among other things, (a) a detailing of currently existing job training, mental health, substance abuse and recovery-based programs, education and all other

programs designed to promote the successful re-entry of incarcerated individuals, and the annual costs thereof, (b) a detailing of the costs necessary to implement the mandatory post-release supervision function included in chapter 127A; (c) the projected case load and budget needs of the parole board during the first five years of program implementation. The report shall be submitted to the executive office of administration and finance, and the chairs the house ways and means committee, senate ways and means committee, the joint committee on public safety and the joint committee on mental health and substance abuse.”

The amendment was rejected.

Ms. Creem and Ms. Jehlen moved that the bill be amended in section 45 by inserting, after the word "degree", the following:- “, and except in the case of multiple life sentences”.

After remarks, the amendment was adopted.

Ms. Creem and Ms. Jehlen moved that the bill be amended in section 46, line 492, by inserting, after the words "good conduct", the following:- “; provided, however, that such terms shall not apply if the court enters written findings that the evidence indicates they would not be in the interests of justice”.

The amendment was rejected.

Ms. Creem, Ms. Jehlen and Ms. Chang-Diaz moved that the bill be amended by the addition of the following sections after section 19:

“SECTION __. Section 32H of said chapter 94C, as so appearing, is hereby amended by striking the first instance of the words ‘work release’.

SECTION __. Said section 32H is hereby further amended by inserting, after the words ‘chapter 127; (3)’, the following text:- to engage in employment pursuant to a work release program in accordance with the provisions of sections 49 , 49A, 86F and 86G of chapter 127 ; or (4).”

The amendment was rejected.

Messrs. Richard T. Moore, Tarr and Michael O. Moore moved that the bill be amended in section 26, by inserting at the end thereof the following:- “No prisoner shall be eligible for a reduced sentence under this section unless they have satisfied both the requirements of the program or activity and demonstrated competency in the material as determined by the commissioner.”

After remarks, the amendment was adopted.

Ms. Creem moved that the bill be amended by inserting at the end thereof the following sections:

“SECTION __. Section 23 of chapter 90 of the General Laws, as most recently amended by section 67 of Chapter 27 of the Acts of 2009, is hereby further amended by inserting after the words, ‘not more than \$500’, in the first sentence of the second paragraph the following:- ‘; provided further, that notwithstanding any general or special law to the contrary, a finding of delinquency shall not be entered against any person against whom such a complaint has been issued’.

SECTION __. The fourth paragraph of section 34J of said chapter 90 of the General Laws, as most recently amended by section 70 of chapter 27 of the Acts of 2009, is hereby further amended by adding at the end thereof the following:- ‘; provided further, that notwithstanding any general or special law to the contrary, any person who violates this section and has not been previously determined responsible for or convicted therefor, or against whom a finding of delinquency or a finding of sufficient facts to support a conviction has not previously been rendered, shall not have a finding of delinquency entered against him’.

SECTION __. Section 52 of chapter 119 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of ‘Delinquent Child’ in the second paragraph and inserting in place thereof the following new definition:-

‘Delinquent Child’, a child between seven and seventeen who commits any offence against a law of the commonwealth, provided however, that such offense shall not include a civil infraction, a violation of any municipal ordinance or town by-law, or a misdemeanor for which the punishment is a fine, imprisonment in a jail or house of correction for not more than six months, or both such fine and imprisonment.

SECTION __ Said section 52 of said chapter, as so appearing, is hereby further amended by inserting at the end thereof the following new definition:-

‘Civil Infraction’, a violation for which a civil proceeding is allowed, and for which the court shall not appoint counsel, or sentence any term of incarceration.

SECTION __. Section 53 of chapter 272 of the General Laws, as most recently amended by section 98 of chapter 27 of the Acts of 2009, is hereby further amended by inserting at the end thereof the following new clause:-

(c) Notwithstanding any general or special law to the contrary, any person who violates clause (a) or (b) of this section shall not have a finding of delinquency entered against him.

SECTION __. Paragraph 1 of section 70C of chapter 277 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out in the second sentence the words:- ‘chapter 119,’”

The amendment was rejected.

Messrs. Richard T. Moore, Tarr, Rodrigues and Michael O. Moore moved that the bill be amended by inserting at the end thereof the following new section:-

“SECTION __. Chapter 278 of the general laws, as appearing in the 2010 Official Edition, is hereby amended by striking section 8A in its entirety, and inserting in place thereof the following:-

Section 8A. It shall be an act of lawful defense if a person, who is an occupant of a dwelling or in any place that they have a right to be, used deadly force, or less than deadly force, if he or she acted in the reasonable belief that an assailant was about to inflict great bodily injury or death upon themselves or upon another person who also had a right to be in the location. There shall be not duty on a person to retreat from any place that they have a right to be. An act of law defense as outlined in this section shall not be cause for arrest or prosecution. Further, an act of lawful defense under this section shall not be cause for the revocation of a

license issued under sections 122, 123, 129B or 131 of chapter 140 of the general laws.”;

By inserting the following new section:-

“SECTION __. Section 85U of chapter 231 of the general laws, as so appearing, is hereby amended by striking, in lines 2-3, the words ‘to an unlawful occupant of said dwelling’.”; and

By inserting, in line 3, after the words “lawful occupant”, the following:- “, provided the lawful occupant committed an act of lawful defense as outlined in section 8A of chapter 278”.

The amendment was rejected.

Messrs. Richard T. Moore, Tarr and Michael O. Moore moved that the bill be amended in section 40, by inserting, in line 423, after the word “Whoever,” the following:- “except as provided or exempted by statute,”.

The amendment was rejected.

Ms Jehlen moved that the bill be amended by striking out Section 23 and inserting thereof:-

“Chapter 127 of the General Laws is hereby amended by inserting after section 119 the following section:-

SECTION 119A.

(vi) Whenever the physician of a state correctional facility certifies that a prisoner held therein is suffering from an irreversible or terminal medical condition, disease or syndrome, whether due to advanced age or otherwise, and is so debilitated or physically incapacitated that the prisoner is incapable of presenting a threat to himself or others to a reasonable degree of medical certainty, the commissioner may grant the prisoner a medical release upon the commissioner’s determination that if the prisoner is released, he will live in a facility or nursing home without violating the law and his release will not be incompatible with the welfare of society. The commissioner shall facilitate appropriate community placement for prisoners granted a medical release.

(b) The authority to grant a medical release rests solely within the discretion of the commissioner. No prisoner has the right to medical release or to a medical evaluation to determine eligibility for such release. The commissioner shall adopt policies and procedures necessary to implement the medical release of prisoners to a hospice or nursing care facility

(c) Except as otherwise provided in this section, a person granted a medical release shall be subject to the laws governing parole as if such person were a parolee. The parole board shall impose terms and conditions for such release within 30 days before the commencement of the release. The parole board may revise, alter or amend such terms and conditions at any time.

(d) A person granted medical release under this section shall be under the jurisdiction, supervision and control of the parole board in the same manner as a person under parole supervision. The parole board may establish conditions of release, on an individual basis, to ensure public safety. A person granted medical release who violates a condition of parole supervision shall be subject to section 149 of chapter 127 of the General Laws.

(e) The Commissioner shall give notice of the granting of the medical release to: The prosecuting attorney and the judge of the court in which the person was convicted; and any victim of the person’s crime if alive or the victim’s family if the victim is deceased, whose address is known by the Commissioner.

(f) Notwithstanding any general law or special law to the contrary, no physician or employer of a physician providing a medical diagnosis pursuant to this section shall be held liable, either as an institution or personally, for issuance of a medical diagnosis under this section, if the diagnosis was made in good faith. All such parties, if they have operated in good faith, shall be totally immune from civil or criminal liability as a result of fulfilling this section.”

After remarks, the amendment was rejected.

Mr. Keenan moved that the bill be amended in section 15 by striking the number “3½” as it appears in line 55 and inserting in its place thereof the following: “5”;

By striking Section 16 and Section 17 in their entirety;

In Section 18 by striking the number “3½” as it appears in line 71 and inserting in its place thereof the following: “5”;

In said Section 18 by striking the number “5” as it appears in line 74 and inserting in its place thereof the following: “7”; and

By striking Section 19 and Section 20 in their entirety.

The amendment was rejected.

Mr. Keenan moved that the bill be amended by striking Section 12 and Section 13 in their entirety.

The amendment was rejected.

Ms. Jehlen moved that the bill be amended in section 23 by striking the second paragraph, line 136 to 141, and adding the following paragraph :-

“The Commissioner shall give notice of the granting of the medical release to: The prosecuting attorney and the judge of the court in which the person was convicted; and any victim of the person’s crime if alive or the victim’s family if the victim is deceased, whose address is known by the Commissioner.”

After remarks, the amendment was rejected.

Ms Jehlen moved that the bill be amended by adding the following section:-

“SECTION XX. Notwithstanding any general or special law to the contrary, the Governor shall convene the Massachusetts Correction Commission to be known hereinafter as ‘the commission.’ The commission shall be assigned to the executive office of public safety for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of the executive office of public safety. The commission shall consist of the secretary of public safety or a designee; the commissioner of probation or a designee; the chairman of the parole board or a designee; the commissioner of mental health or a designee; the commissioner of mental retardation or a designee; the commissioner of public health or a designee, ex officio. The president of the senate shall appoint 2 members; the speaker house of representatives shall appoint 2 members. The governor shall appoint 6 members from the following categories: a person to chair the commission who has experience in state government; a district attorney; a public defender; a sheriff; an expert on prisoner re-entry; and a corrections policy expert. The

following organizations shall each make one appointment to the commission: the Women's Bar Association shall appoint an attorney with experience in women's prison issues; the Massachusetts Association of Health Plans shall appoint a health care expert; the National Alliance for the Mentally Ill shall make one appointment; the Massachusetts Taxpayers Foundation shall make one appointment; and Massachusetts Correctional Legal Services shall make one appointment.

The terms of the members appointed shall be three years, except that of the first appointed members seven shall be appointed for a term of two years, seven shall be appointed to a term of three years, the chairperson shall be appointed for a term of three years. In the first year of appointments, the governor, in consultation with the chairperson, shall determine which members shall serve which terms.

No member of the commission shall be appointed to serve more than two consecutive three-year terms. Upon the expiration of the term of an appointed member, the successor shall be appointed in a like manner for three years. A member ex officio shall not be entitled to vote on any matter before the committee.

Members of the commission shall receive no compensation but each member shall be reimbursed by the commonwealth for necessary expenses incurred in the performance of his or her official duties. The commission shall adopt bylaws to govern its own proceedings. Said bylaws shall be submitted for approval by the house and senate committees on post-audit and oversight, the joint committee on public safety and homeland security and the joint committee on the judiciary.

SECTION XX. The commission shall have the following duties:

- (a) It shall study the medical services, including mental health and substance abuse treatment services, and educational, vocational, employment and rehabilitation programs available to prisoners;
- (b) It shall report annually to the house and senate committees on ways and means and post-audit and oversight, the joint committee on public safety and homeland security and the joint committee on the judiciary on the allocation of resources, specifically fixed and operating costs of any new and preexisting facilities, assets, or personnel utilized by the department of correction. It shall make recommendations regarding how to allocate such resources in the most efficient and useful manner for both the taxpayer and the offender. It shall recommend innovative approaches to resolving present and future issues in criminal justice to promote public safety by, but not limited to, modernizing existing facilities, developing alternative sentencing methods to reduce prison overcrowding, reduce recidivism, and improve rehabilitation.
- (c) It shall routinely monitor the financial status of the department of correction to assure that the department is managing revenue, state, federal and grant monies used for the operation of the department, and any applicable bond proceeds responsibly and in accordance with law and established policy;
- (d) Annually, each correctional institution of the commonwealth shall be visited by at least one member of the commission. Every member of the commission shall visit at least one correctional institution of the commonwealth annually;
- (e) It shall report on the general state of correctional facilities, the administration of correctional policy and practices, the living conditions of inmates therein, the general state of working conditions for department of correction employees and, where appropriate, the impact of department of correction policies and inmate living conditions upon rates of recidivism and over-classification;
- (f) It shall provide public education on corrections and criminal justice issues;
- (g) It may review any existing or proposed regulations promulgated or under consideration by the department of correction;
- (h) It shall issue public reports annually to the department of correction, the clerks of the house of representatives and the senate, the house and senate committees on ways and means and post-audit and oversight and the Joint Committee on the Judiciary;
- (i) It shall advocate on behalf of any recommended reform that should be adopted by the commonwealth;
- (j) It shall advise the commissioner of the department of correction on policy development and priorities for department of correction facilities as well as on the department's compliance with legislative and judicial mandates;
- (k) It shall meet at least 6 times per year upon the call of the chairperson, and other meetings may be called by the chairperson upon giving at least 7 days' notice to all members and the public. Emergency meetings may be held without any notice upon the request of a majority of all voting members;
- (l) All meetings of the commission shall be open to the public and announced through public notice at least 7 days prior to the meeting date. All inmates housed within department of correction facilities shall be notified of said meetings at least 7 days prior to the meeting date. The commission shall accept written testimony in the event any individual is unable to attend the meeting.
- (m) A majority of the voting membership of the commission shall constitute a quorum at any meeting of the commission. An action of the commission is not binding unless the action is taken pursuant to an affirmative vote of a majority of voting members present, but not fewer than 8 voting members of the commission must be present, and the vote must be recorded in the minutes of the meeting;
- (n) The chairperson shall cause to be made a complete record of all the proceedings of the commission, which record shall be open for public inspection;
- (o) It shall hold semi-annual public hearings. Notice of said public hearings shall be issued at least one month prior to the date of the hearing and shall include information regarding the time and place of the hearing. Notice of said hearing shall also be posted in a public location in all department of correction facilities and distributed to all inmates of said facilities. Accommodations shall be made for inmates in the department of correction facilities to testify before the commission at said public hearings utilizing the most current technology. Written testimony shall be accepted by the commission as well;
- (p) It shall appoint an executive director or full time equivalent. The executive director or full time equivalent shall have the authority to hire support staff as necessary.

SECTION XX. Pursuant to section 63 of chapter 3 of the General Laws, the house and senate committees on post-audit and oversight of the general court in cooperation with the joint committee on public safety and homeland security and the joint

committee on the judiciary shall have authority to review regulations proposed or adopted by the department of correction. The house and senate Committees on post-audit and oversight may hold public hearings concerning a proposed or existing regulation and may submit to the department of correction comments concerning the merit and appropriateness of the regulations to be promulgated and an opinion whether the regulations are authorized by, and consistent with, these chapters. The department of correction shall respond in writing within 10 days to the house and senate committees on post-audit and oversight written questions relevant to the committee's review of a proposed or existing regulation. The department of correction shall provide to the house and senate committees on post-audit and oversight, without charge, copies of all public records in the department of correction's custody relating to the regulation or action in question within 10 days of a request by the house and senate committees on post-audit and oversight. The house and senate committees on post-audit and oversight may issue reports with proposed changes to a proposed or existing regulation and shall transmit this report to the department of correction. If the department of correction does not adopt the proposed changes contained in the house and senate committees on post-audit and oversight's reports, the department of correction shall notify the committee in writing of the reasons why it did not adopt the changes either at the time it adopts a proposed regulation or within 21 days of receiving the committee's report on an existing regulation.

SECTION XX. There is hereby appropriated \$200,000 from the executive office of public safety for the establishment, operation, and management of said commission."

The amendment was rejected.

Ms. Jehlen and Mr. Tarr moved that the bill be amended in section 46 by striking the words "for which such person was adjudicated a delinquent child" and inserting in place thereof, "committed before such person's eighteenth birthday."; and by striking out the words "for which a person was treated as a juvenile" and inserting in place thereof, "committed before a person's eighteenth birthday".

The amendment was rejected.

Ms. Jehlen moved to amend the bill in section 34, line 270 by striking out before the word, "spent", the word, "successfully".

The amendment was rejected.

Mr. Keenan moved that the bill be amended by striking Sections 6 through 10 in their entirety.

The amendment was rejected.

Messrs. Baddour, Ross and Tarr moved that the bill be amended by inserting the following new section:-

"SECTION 2A. Section 4 of said chapter 22E, as so appearing, is hereby further amended by striking out, in line 5, the word 'licensed' and inserting in place thereof the following word: - 'approved'."; and by striking out section 4, and inserting in place thereof the following:-

"SECTION 4. Section 11 of said chapter 22E, as so appearing, is hereby amended by striking out, in line 2, the word 'refuses to provide such DNA sample', and inserting in place thereof the following word:- 'fails to provide such DNA sample within 1 year of conviction, adjudication or release from custody, as required by section 3, whichever occurs first.'."

After remarks, the amendment was adopted.

Ms. Jehlen moved that the bill be amended in section 34 by inserting, in line 258, after the word "sanctions" the following words:- "as well as incentives"; in line 259, the second appearance of the word "and"; by inserting, in line 261, after the word "supervision" the following words:- "and (iv) require, at least 30 days before the scheduled release date, the creation of a transitional plan with each individual addressing housing, employment, substance abuse, and any other topic deemed relevant by the commissioner. Parole officers shall provide assistance and guidance to individuals, as needed, relative to employment, housing, education, counseling, substance abuse treatment and required testing programs".

The amendment was rejected.

Ms. Jehlen moved that the bill be amended in section 34 by striking, in line 274, the words "or revocation"; by striking, in line 275, the words "or revocation"; by striking, in lines 279 to 284, the words "or, upon a determination that such alternative sanctions are not appropriate, incarcerated as follows: for a first violation, for not more than 2 months or the maximum remaining period of post-incarceration supervision, whichever is less; for a second violation, for not more than 6 months or the maximum remaining period of post-incarceration supervision, whichever is less; for a third or subsequent violation, for not more than 12 months or the maximum remaining period of post-incarceration supervision, whichever is less" and inserting in place thereof the following words:- "but under no circumstances shall a violation not otherwise constituting criminal offense result in the incarceration of the individual"; by striking, in line 284 to 285, the words "in which the individual is not being incarcerated for a violation"; by striking, in lines 290 to 291, the words " and the individual is not incarcerated for the violation"; and by striking, in lines 293 to 295, the words "For any violation of the conditions of mandatory post-release supervision, the period of supervision shall be stayed during a period of incarceration and it shall be resumed upon release".

After remarks, the amendment was rejected.

Ms. Jehlen moved that the bill be amended by inserting the following:-

"Section XX. The General Laws are hereby amended by inserting in chapter 124, Section 1 the following subsection:-

(v) promulgate regulations to develop, implement, coordinate and monitor a comprehensive, collaborative, seamless, reentry strategy which promotes successful transition of the offender population to promote public safety and reduce recidivism by collaborating with county, state, community and faith-based agencies in areas including, but not limited to, housing, employment, medical and mental health care, substance abuse treatment, education and related transitioning programming. The reentry process should begin upon an inmate's commitment to the Department and continue until the inmate is discharged from supervision into the community."

The amendment was adopted.

Ms. Jehlen moved to amend the bill in Section 29 by inserting, in line 201, after the word "sentence" the words "for violent crimes" and inserting, in line 202, after the number "279." the following words:- "Prisoners serving more than 1 concurrent life sentence for non-violent crimes shall be eligible for parole after serving 25 years."

The amendment was rejected.

Mr. Michael O. Moore and Ms. Clark moved that the bill be amended by inserting, after section 43, the following section:-

"SECTION 43A. Chapter 277 of the General Laws is hereby amended by striking out section 70C and inserting in place thereof the following section:-

Section 70C. (a) Any law enforcement officer taking cognizance of a violation of a municipal ordinance, by-law or a misdemeanor offense may treat it as a civil infraction.

(b) This section shall not apply to the offenses in sections 22F, 24, 24D, 24G, 24L and 24N of chapter 90, sections 8, 8A and 8B of chapter 90B, chapter 119, chapter 119A, chapter 209, chapter 209A, chapter 265, sections 1, 2, 3, 6, 6A, 6B, 8B, 13, 13A, 13B, 13B1/2, 13B3/4, 13C, 14, 14B, 15, 15A, 16, 17, 18, 19, 20, 22A, 22B, 22C, 23, 23A, 23B, 28, 31 and 36 of chapter 268, chapter 268A, sections 10, 10A, 10C, 10D, 10E, 11B, 11C, 11E, 12, 12A, 12B, 12D and 12E of chapter 269 and sections 1, 2, 3, 4, 4A, 4B, 6, 7, 8, 12, 13, 16, 28, 29A and 29B of chapter 272.

(c) If any officer empowered to enforce this section takes cognizance of a violation thereof, such officer may request that the offender state his name and address. Whoever, upon such request, refuses to state his name and address, may be arrested without a warrant, or if he states a false name and address or a name and address which is not his name and address in ordinary use, he shall be punished by a fine of not less than \$50 nor more than \$100. Such officer may, as an alternative to instituting criminal proceedings, forthwith give to the offender a written notice to appear before the clerk of the district court having jurisdiction at any time during office hours, not later than 21 days after the date of such violation. Such notice shall be made in triplicate, and shall contain the name and address of the offender and, if served with notice in hand at the time of such violation, the number of his license, if any, to operate motor vehicles; the registration number of the vehicle or motor boat involved, if any; the time and place of the violation; the specific offense charged; and the time and place for his required appearance. Such notice shall be signed by the officer, and shall be signed by the offender whenever practicable in acknowledgment that the notice has been received. The officer shall, if possible, deliver to the offender at the time and place of the violation a copy of such notice. Whenever it is not possible to deliver a copy of such notice to the offender at the time and place of the violation, such copy shall be mailed or delivered by the officer, or by his commanding officer or any person authorized by the commanding officer, to the offender's last known address, or in the case of a violation involving a motor vehicle or motor boat registered under the laws of the commonwealth, within 5 days of the offense, or in the case of any motor vehicle or motor boat registered under the laws of another state or country, within 10 days thereof, exclusive, in either case, of Sundays and holidays, to the address of the registrant of the motor vehicle or motor boat involved, as appearing, in the case of a motor vehicle registered under the laws of the commonwealth, in the records of the registry of motor vehicles or the division of motor boats or, in the case of a motor vehicle or motor boat registered under the laws of another state or country in the records of the official in such state or country having charge of the registration of such motor vehicle or motor boat. Such notice mailed by the officer, his commanding officer, or the person so authorized to the last address of said registrant as so appearing, shall be deemed a sufficient notice, and a certificate of the officer or person mailing such notice that it has been mailed in accordance with this section shall be deemed prima facie evidence thereof and shall be admissible in any court of the commonwealth as to the facts contained therein. At or before the completion of each tour of duty the officer shall give to his commanding officer those copies of each notice of such a violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer shall retain 1 of these copies and shall, at a time not later than the next court day after said delivery or mailing, deliver another copy to the clerk of the court before whom the offender has been notified to appear. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person notified to appear before the clerk of a district court as hereinbefore provided may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing, or by mailing to such clerk, with the notice, the sum provided herein, such payment to be made only by postal note, money order or check. If it is the first, second or third offense subject to this section committed by such person within the jurisdiction of the court in the calendar year, payment to such clerk of the sum of \$20 shall operate as a final disposition of the case; if it is the fourth or subsequent such offense so committed in such calendar year, payment to such clerk of the sum of \$100 shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If any person notified to appear before the clerk of the district court fails to appear and pay the fine provided hereunder or, having appeared, desires not to avail himself of the procedure hereinbefore provided for the non-criminal disposition of the case, the clerk shall notify the officer concerned, who shall forthwith make application for a criminal complaint and follow the procedure established for criminal cases, and shall notify, if a motor vehicle is involved, the registrar of motor vehicles, or, if a motor boat is involved, the division of motor boats. If any person fails to appear in accordance with the summons issued upon such complaint the clerk shall send such person by certified mail, return receipt requested, a notice that the complaint is pending and that, if the person fails to appear within 21 days from the sending of such notice, a warrant for his arrest will be issued. If any person fails to appear within 21 days from the sending of such notice, the court shall issue a warrant for his arrest.

The notice to appear, provided herein, shall be printed in such form as the chief justice for the district court department and the chief justice for the Boston municipal court department may prescribe for their respective departments; provided, however, that a notice prepared pursuant to section 21A or section 20C of chapter 90 may be so revised or adapted that such notice may also be

used for the notice required by this section.

(d) When the court has treated a violation of a municipal ordinance or by-law or a misdemeanor offense as a civil infraction under this section and the ordinance, by-law or misdemeanor in question does not set forth a civil fine as a possible penalty, the court may impose a fine of not more than \$5,000. An adjudication of responsibility shall neither be used in the calculation of second and subsequent offenses under any chapter, nor as the basis for the revocation of parole or of a probation surrender. An adjudication of responsibility under this section may include an order of restitution.”

After remarks, the amendment was adopted.

Ms. Creem moved that the bill be amended by the addition of the following sections at the end thereof:

“SECTION __. Chapter 94C of the General Laws, as appearing the 2008 Official Edition, is hereby amended by inserting the following section:

Section 34A.

(a) A person who, in good faith, seeks medical assistance for someone experiencing a drug-related overdose shall not be charged or prosecuted for possession of a controlled substance pursuant to the provisions of section 34 if the evidence for the charge of possession of a controlled substance was gained as a result of the seeking of medical assistance.

(b) A person who experiences a drug related overdose and is in need of medical assistance and, in good faith, seeks medical assistance for himself or herself, or is the subject of such a good faith request for medical assistance, shall not be charged or prosecuted for possession of a controlled substance pursuant to section 34 if the evidence for the charge of possession of a controlled substance was gained as a result of the overdose and the need for medical assistance.

(c) The act of seeking medical assistance for someone who is experiencing a drug related overdose may be used as a mitigating factor in a criminal prosecution pursuant to the Controlled Substance Act.

(d) A person who, in good faith, seeks medical assistance for someone experiencing a drug-related overdose shall not be charged or prosecuted for being in possession of a controlled substance pursuant to the provisions of section 35 if the evidence for the charge of being in possession of a controlled substance was gained as a result of the seeking of medical assistance.

(e) A person who experiences a drug related overdose and is in need of medical assistance and, in good faith, seeks medical assistance for himself or herself, or is the subject of such a good faith request for medical assistance, shall not be charged or prosecuted for being in possession of a controlled substance pursuant to section 35 if the evidence for the charge of being in possession of a controlled substance was gained as a result of the overdose and the need for medical assistance.

(f) Nothing contained herein shall prevent anyone from being charged with trafficking, distribution, and/or possession of a controlled substance with intent to distribute.

(g) A person acting in good faith may receive a naloxone prescription, possess naloxone, and administer naloxone to an individual appearing to experience an opiate-related overdose.

SECTION __. Section 19 of Chapter 94C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding after subsection (c) the following subsection:

(d) Naloxone or other opioid antagonist may lawfully be prescribed and dispensed to a person at risk of experiencing an opiate-related overdose or a family member, friend or other person in a position to assist a person at risk of experiencing an opiate-related overdose. For purposes of this chapter and chapter 112, any such prescription shall be regarded as being issued for a legitimate medical purpose in the usual course of professional practice.”

The amendment was adopted.

Messrs. Tarr, Hedlund, Knapik, Ross and Michael O. Moore moved that the bill be amended by inserting at the end thereof the following new section:-

“SECTION __. Section 4 of Chapter 27 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, in line 30, after the word ‘Association,’ the following words:- one member of local law enforcement authorized to make arrests or serve criminal process.”; and

By inserting in said Section 4 of Chapter 27 after the last sentence of the second paragraph the following two sentences:-

“Notwithstanding the provisions of this section, two members of the parole board shall have at least five years experience in local law enforcement within the last 10 calendar years, except that one such member may have federal law enforcement experience in lieu of local experience. All law enforcement members shall have been in good standing with their law enforcement agencies at the termination of their service. If at any time, due to a vacancy or otherwise, the board does not contain at least one member of law enforcement, as provided above, the board shall not grant any parole permits until the board contains such a member.”

After debate, the amendment was rejected.

Mr. Tarr moved that the bill be amended by inserting at the end thereof the following new section:-

“SECTION __. Section 4 of chapter 27 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out in line 6, the word ‘five’, and inserting in place thereof the following figure:- ‘9’; and by inserting, in line 8, after the word “association,” the following words:- one member of local law enforcement, one person chosen from a list of three nominees submitted by the Massachusetts District Attorneys Association, one person designated by the Committee for Public Counsel Services, one person chosen from one person who is a victim of a crime listed in Section 25 of Chapter 279, or a designated representative set by such a victim or the victim’s family under the auspices or supervision of a victim services program, or a parent, stepparent, guardian or spouse of such victim, or a victim witness advocate.”.

Pending the question on adoption of the amendment, Ms. Creem moved to amend the pending amendment (Tarr) by striking the amendment in its entirety and inserting in place thereof the following:-

“SECTION __. Section 4 of chapter 27 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out in line 6, the word ‘five’, and inserting in place thereof the following figure:- ‘9’; and by inserting, in line 8, after the

word 'association,' the following words:- 'one person chosen from a list of three nominees submitted by the Massachusetts District Attorneys Association, one person chosen from a list of three nominees submitted by the Committee for Public Counsel Services, one person chosen from a list of three nominees submitted by the Prisoners' Legal Services and one member from local law enforcement'."

After remarks, the further amendment was adopted.

The pending amendment (Tarr), as amended (Creem), was then adopted.

Mr. Tarr moved that the bill be amended in section 43, by striking subsection (iii) of the term "designated offense" in its entirety and inserting in place thereof the following:-

"(iii) a violation of any of the offenses set forth in section 10 paragraph (a) or (c) of chapter 269, provided that such person had previously been convicted of said offense."

The amendment was rejected.

Ms Jehlen and Ms. Chang-Diaz moved that the bill be amended by the addition of the following section at the end thereof:

"SECTION __: Not later than December 31, 2012, and annually thereafter, the Department of Corrections shall report to the house and senate committees on ways and means and the joint committee on the judiciary on the number of individuals sentenced under sub-section (b) of section 25 of chapter 279 of the general laws, the number of inmates currently incarcerated in state prisons or county jails who were sentenced under such provision, the number of such inmates who have completed at least half of their sentences*, the number of individuals sentenced under sub-section (a) of section 25 of chapter 279, the number of inmates currently incarcerated in state prisons or county jails who were sentenced under such provision, the number of such inmates who have completed at least half but less than two-thirds of their sentences*, the additional costs of incarcerating all such inmates as a result of this chapter's amendments to said section 25 of chapter 279, the effect of incarcerating all such inmates on prison and jail overcrowding, on recidivism rates, and on the need for future construction or expansion of prisons and jails, and the total cost of the post-release supervision program created by section 34 of this chapter."

After remarks, the amendment was rejected.

Messrs. Tarr, Hedlund, Knapik and Ross moved that the bill be amended by inserting at the end thereof the following new section:-

"SECTION __. Section 4 of Chapter 27 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, in line 30, after the word 'Association,' the following words:- 'a victim of a crime listed in Section 25 of Chapter 279, or a designated representative set by such a victim or the victim's family under the auspices or supervision of a victim services program, or a parent, stepparent, guardian or spouse of such victim, or a victim witness advocate, provided that such victim representative is otherwise qualified as provided for above,'; and by inserting in said section 4 of Chapter 27 after the last sentence of the second paragraph the following two sentences:- "Notwithstanding the provisions of this section, one member of the parole board shall be a victim of a crime listed in Section 25 of Chapter 279, or a designated representative set by such a victim or the victim's family under the auspices or supervision of a victim services program, or a parent, stepparent, guardian or spouse of such victim, or a victim witness advocate. If at any time, due to a vacancy or otherwise, the board does not contain at least one member representing a victim, as provided above, the board shall not grant any parole permits until the board contains such a member."

Pending the question on adoption of the amendment, Messrs. Baddour, Tarr, Knapik, Hedlund and Ross moved that the pending amendment (Tarr, et al) be amended by striking out the text, and inserting in place thereof the following text:-

By inserting, after section 4, the following section:-

"SECTION 4A. Section 4 of chapter 27 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word 'Association,' , in line 30, the following words:- 'a victim witness advocate, provided that such victim representative is otherwise qualified as provided for above,'; and in the second paragraph of said section 4 of said chapter 27 by adding the following sentence:- 'Notwithstanding the provisions of this section, 1 member of the parole board shall be a victim witness advocate'."

After remarks, the question on adoption of the further amendment was determined by a call of the yeas and nays, at eighteen minutes before five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 35 – nays 0) [Yeas and Nays No. 115]:

YEAS

Baddour, Steven A. Joyce, Brian A.

Brewer, Stephen M. Keenan, John F.

Candaras, Gale D. Kennedy, Thomas P.

Chandler, Harriette L. Knapik, Michael R.

Chang-Diaz, Sonia McGee, Thomas M.

Clark, Katherine M. Montigny, Mark C.

Creem, Cynthia Stone Moore, Michael O.

DiDomenico, Sal N. Moore, Richard T.

Donnelly, Kenneth J. Pacheco, Marc R.

Donoghue, Eileen M. Petrucci, Anthony

Downing, Benjamin B. Rodrigues, Michael J.

Eldridge, James B. Ross, Richard J.

Fargo, Susan C. Spilka, Karen E.

Finegold, Barry R. Tarr, Bruce E.

Flanagan, Jennifer L. Timilty, James E

Hart, John A., Jr. Welch, James T.
Hedlund, Robert L. Wolf, Daniel A. — 35.
Jehlen, Patricia D.
NAYS — 0.
ABSENT OR NOT VOTING
Berry, Frederick E. Rush, Michael F. — 3.
Rosenberg, Stanley C.

The yeas and nays having been completed at a quarter before five o'clock P.M., the further amendment was adopted.

The pending amendment (Tarr, et al), as amended (Baddour, et al) was adopted.

Mr. Brewer moved that the bill be amended by inserting after section 13 the following section:-

“SECTION 13A. Subsection (b) of said section 32E of said chapter 94C, as so appearing, is hereby amended by striking out, in lines 43 and 45, the word ‘fourteen’ and inserting in place thereof the following figure:- 18.”;

By inserting after Section 17 the following section:-

“SECTION 17A. Subsection (c) of said section 32E of said chapter 94C, as so appearing, is hereby amended by striking out, in lines 81 and 83, the word ‘fourteen’ and inserting in place thereof the following figure:- 18.”;

In Section 46, in proposed section 25 of chapter 279 of the General Laws by striking out proposed subsection (b) and inserting in place thereof the following subsection:-

“(b) Whoever: (i) has been convicted 2 times previously of 1 or more of the following offenses: section 131M of chapter 140; section 1, 13 or 13½, subsection (b) of section 13A, section 13B, 13B½, 13B¾, 13F, 13H, 13J, 13K, 14 or 15, subsection (a) or (c) of section 15A, subsection (b) of section 15C, 15D, 16, 17, 18, 18A, 18B or 18C, section 21, 21A, 22, 22A, 22B, 22C, 23A, 23B, 24, 24B, 26, 26B, 26C or 28, subsection (b) of section 39 or subsection (b) or (c) of section 43 of chapter 265, section 1, 14, 17, 18, 102, 102A, 102B or 102C of chapter 266, section 10, 10E or subsection (e) of section 12F of chapter 269 or section 3, 4A, 13, 17, 29A, 29B, 29C, 35A or subsection (b) of section 53A of chapter 272, or has been convicted 2 times previously of a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority, arising out of charges separately brought and tried, and arising out of separate and distinct incidents that occurred at different times, where the second offense occurred subsequent to the first conviction; (ii) has served at least 1 day of incarceration for each of the prior 2 convictions; and (iii) does not show that he has been pardoned for either prior offense on the ground that he was innocent shall, upon conviction of 1 of the enumerated offenses in clause (i), where the offense occurred subsequent to the second conviction, be considered a habitual criminal and punished by imprisonment in the state prison for the maximum term provided by law. No sentence imposed under this section shall be reduced or suspended nor shall such person so sentenced be eligible for probation, parole, work release or furlough or receive any deduction from such person’s sentence for good conduct.”; and

By striking out Section 48, and inserting in place thereof the following section:-

“SECTION 48. Section 34 shall apply to any felony, as defined in section 1 of chapter 274 of the General Laws, committed on or after the effective date of this act.”

The amendment was adopted.

The Ways and Means amendment was then adopted, as amended.

The bill (Senate, No. 2054, amended) was then ordered to a third reading and read a third time.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays at seven minutes before five o'clock P.M., on motion of Mr.. Baddour, as follows, to wit (yeas 36 — nays 0) [Yeas and Nays No. 116]:

YEAS

Baddour, Steven A. Joyce, Brian A.
Brewer, Stephen M. Keenan, John F.
Candaras, Gale D. Kennedy, Thomas P.
Chandler, Harriette L. Knapik, Michael R.
Chang-Diaz, Sonia McGee, Thomas M.
Clark, Katherine M. Montigny, Mark C.
Creem, Cynthia Stone Moore, Michael O.
DiDomenico, Sal N. Moore, Richard T.
Donnelly, Kenneth J. Murray, Therese
Donoghue, Eileen M. Pacheco, Marc R.
Downing, Benjamin B. Petruccelli, Anthony
Eldridge, James B. Rodrigues, Michael J.
Fargo, Susan C. Ross, Richard J.
Finegold, Barry R. Spilka, Karen E.
Flanagan, Jennifer L. Tarr, Bruce E.
Hart, John A., Jr. Timilty, James E.
Hedlund, Robert L. Welch, James T.
Jehlen, Patricia D. Wolf, Daniel A. — 36.
NAYS — 0.
ABSENT OR NOT VOTING

Berry, Frederick E. Rush, Michael F. — 3.
Rosenberg, Stanley C.

The yeas and nays having been completed at five o'clock P.M., the bill was passed to be engrossed [For text of bill, printed as amended, see Senate, No. 2059].
Sent to the House for concurrence.

There being no objection, the President recognized the Minority Leader who recognized in the Senate Gallery the parents of Melissa Gosule who was tragically murdered by a repeat violent offender who picked her up on the side of the road after her car broke down some ten years ago. The Minority Leader then recognized Chuck Maguire, brother of Woburn police officer John Maguire who was tragically killed by a career criminal on parole.

Remarks of Senator Thomas M. McGee

Last month I had the opportunity to say a few words about a close friend of mine and colleague Steven Tolman who was departing the Senate. Today I have the honor of speaking about one of his dedicated staff members, Ben Franco.

Ben is a graduate of Saint Lawrence University and the London School of Economics and Political Science. He got his start in the Tolman office as the Budget and Communications Director in 2008. Anybody that knows Steve Tolman can imagine what a difficult job that must have been...directing and more importantly controlling his communications. Ben continued on to the role of Legislative Director which he holds today. He has been a strong asset to Senator Tolman's office and the Senate as a whole. While both the members and staff are sad to see Ben leave, we are very proud that he is moving forward with his career into the role of Public Policy Coordinator at Harvard University's Public Affairs and Communication Department. And we know that in his new role he will stay in touch and continue to be a strong advocate of public service and the people of the Commonwealth.

On motion of Mr. McGee, the above remarks were ordered printed in the Journal of the Senate.

PAPER FROM THE HOUSE

Engrossed Bill—Land Taking for Conservation Etc.

An engrossed Bill authorizing the city of Taunton to lease a certain parcel of land (see Senate, No. 1050, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at two minutes before five o'clock P.M., as follows, to wit (yeas 35 - nays 0) [Yeas and Nays No. 117]:

YEAS

Baddour, Steven A. Joyce, Brian A.
Brewer, Stephen M. Keenan, John F.
Candaras, Gale D. Kennedy, Thomas P.
Chandler, Harriette L. Knapik, Michael R.
Chang-Diaz, Sonia McGee, Thomas M.
Clark, Katherine M. Montigny, Mark C.
Creem, Cynthia Stone Moore, Michael O.
DiDomenico, Sal N. Moore, Richard T.
Donnelly, Kenneth J. Pacheco, Marc R.
Donoghue, Eileen M. Petruccelli, Anthony
Downing, Benjamin B. Rodrigues, Michael J.
Eldridge, James B. Ross, Richard J.
Fargo, Susan C. Spilka, Karen E.
Finegold, Barry R. Tarr, Bruce E.
Flanagan, Jennifer L. Timilty, James E.
Hart, John A., Jr. Welch, James T.
Hedlund, Robert L. Wolf, Daniel A. — 35.
Jehlen, Patricia D.

NAYS — 0.

ABSENT OR NOT VOTING

Berry, Frederick E. Rush, Michael F. — 3.
Rosenberg, Stanley C.

The yeas and nays having been completed at five o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

Order Adopted.

On motion of Mr. Baddour, --

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

Moment of Silence.

At the request of the President the members, guests and staff stood in a moment of silence and reflection to the memory of Sue "Sammie" Montgomery of Charlestown.

At the request of the Ms. Fargo the members, guests and staff stood in a 2-minute moment of silence and reflection to honor the service and sacrifice of all veterans of the United States Armed Forces.

Adjournment in Memory of Sue "Sammie" Montgomery.

The Senator from Plymouth and Barnstable, Ms. Murray, requested that when the Senate adjourns today, it adjourn in memory of Sue "Sammie" Montgomery of Charlestown.

Sue "Sammie" Montgomery, age 63, passed away on Monday, November 7th, 2011 from complications associated with a brain tumor. Sammie served as Manager of Administrative Services in the Senate Business Office since July 1, 2008 and, in that time, she became not only a trusted colleague, but a true friend to us all.

As Manager of Administrative Services, Sammie was responsible for the Senate Page Program and she took the time to form a special relationship with everyone in the program. She was their friend and their mentor, and the Senate pages would look to Sammie for advice on careers and college courses. In her position, Sammie was also responsible for office space relocations, purchasing and she was the face of the business office.

She had a love for sports and a passion for the Red Sox, Mike Lowell and Jason Varitek. A lifelong resident of Charlestown, Sammie dreamed of traveling the world and we all enjoyed hearing stories of her adventures in Italy, Monaco and Paris.

During her time in the Senate, Sammie became a part of our family. She was an incredible person and employee and we will never forget her warm heart and smile. Her passing is a great loss, but we are honored to have had the opportunity to know, and remember, Sammie.

Sammie will remain in our thoughts and prayers.

Accordingly, as a mark of respect to the memory of Sue "Sammie" Montgomery, at five minutes past five o'clock P.M., on motion of Ms. Creem, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.