

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 278
3 entitled “An act relating to contributory negligence in a civil action involving
4 sexual assault” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 12 V.S.A. § 1036 is amended to read:

8 § 1036. COMPARATIVE NEGLIGENCE

9 (a) ~~Contributory~~ Comparative negligence shall not bar recovery in an
10 action by any plaintiff, or ~~his or her~~ the plaintiff's legal representative, to
11 recover damages for negligence resulting in death, personal injury, or property
12 damage, if the negligence was not greater than the causal total negligence of
13 the defendant or defendants, but the damage shall be diminished by general
14 verdict in proportion to the amount of negligence attributed to the plaintiff.
15 Where recovery is allowed against more than one defendant, each defendant
16 shall be liable for that proportion of the total dollar amount awarded as
17 damages in the ratio of the amount of ~~his or her~~ the defendant's causal
18 negligence to the amount of causal negligence attributed to all defendants
19 against whom recovery is allowed.

20 (b) Comparative negligence shall be prohibited as a defense to limit a
21 plaintiff's recovery for damages in an action for a negligence claim relating to

1 a sexual act as defined in 13 V.S.A. § 3251 or sexual conduct as defined in 13
2 V.S.A. § 2821.

3 Sec. 2. EFFECTIVE DATE

4 This act shall take effect on passage.

5 and that after passage the title of the bill be amended to read: “An act
6 relating to prohibiting a comparative negligence defense in an action for a
7 negligence claim relating to a sexual act or sexual conduct”

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13 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE