

1 S.2

2 Introduced by Senator Sears

3 Referred to Committee on Judiciary

4 Date: January 7, 2011

5 Subject: Crimes and criminal procedure; sex offender registry; sexual
6 exploitation of a minor

7 Statement of purpose: This bill proposes to clarify that both misdemeanor and
8 felony sexual exploitation of a minor offenses result in the offender being
9 placed on the department of public safety's sex offender registry, but only
10 felony violations of that statute result in the offender being placed on the
11 internet sex offender registry.

12 An act relating to sexual exploitation of a minor and the sex offender
13 registry

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 ~~Sec. 1. 13 V.S.A. § 5401 is amended to read:~~

16 ~~§ 5401. DEFINITIONS~~

17 ~~As used in this subchapter:~~

18 ~~* * *~~

19 ~~(10) "Sex offender" means:~~

20 ~~* * *~~

1 ~~(B) A person who is convicted of any of the following offenses~~
2 against a victim who is a minor, except that, for purposes of this subdivision,
3 conduct which is criminal only because of the age of the victim shall not be
4 considered an offense for purposes of the registry if the perpetrator is under the
5 age of 18 and the victim is at least 12 years old:

6 * * *

7 (ix) sexual exploitation of a minor as defined in 13 V.S.A.
8 § ~~3258(b)~~ 3258.

9 * * *

10 Sec. 2. 13 V.S.A. § 5411a is amended to read:

11 § 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

12 (a) Notwithstanding 20 V.S.A. §§ ~~2056a-2056e~~, the department shall
13 electronically post information on the Internet in accordance with subsection
14 (b) of this section regarding the following sex offenders, upon their release
15 from confinement:

16 (1) Sex offenders who have been convicted of:

17 * * *

18 (I) ~~Sexual~~ A felony violation of sexual exploitation of a minor
19 (13 V.S.A. § ~~3258(b)~~ 3258(c)).

20 * * *

21 Sec. 3. EFFECTIVE DATE

22 This act shall take effect on passage.

Sec. 1. 13 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this subchapter:

* * *

(10) "Sex offender" means:

* * *

(B) A person who is convicted of any of the following offenses against a victim who is a minor, except that, for purposes of this subdivision, conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the registry if the perpetrator is under the age of 18 and the victim is at least 12 years old:

* * *

(ix) sexual exploitation of a minor as defined in 13 V.S.A. § ~~3258(b)~~ 3258.

* * *

Sec. 2. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

(a) Notwithstanding 20 V.S.A. §§ 2056a-2056e, the department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon their release from confinement:

(1) Sex offenders who have been convicted of:

* * *

(I) ~~Sexual~~ A felony violation of sexual exploitation of a minor (13 V.S.A. § ~~3258(b)~~ 3258(c)).

* * *

(b) The department shall electronically post the following information on sex offenders designated in subsection (a) of this section:

* * *

(6) ~~except as provided in subsection (l) of this section, the offender's address or, if the offender does not have a fixed address, other information about where the offender habitually lives, if:~~ the date and nature of the offender's conviction;

* * *

Sec. 3. 16 V.S.A. § 255 is amended to read:

*§ 255. PUBLIC AND INDEPENDENT SCHOOL EMPLOYEES;
CONTRACTORS*

(a) Superintendents, headmasters of recognized or approved ~~Vermont~~ independent schools, and their contractors shall request criminal record information for the following:

(1) The person a superintendent or headmaster is prepared to recommend for any full-time, part-time or temporary employment.

(2) Any person directly under contract to an independent school or school district who may have unsupervised contact with school children.

(3) Any employee of a contractor under contract to an independent school or school district who is in a position that may result in unsupervised contact with school children.

(4) Any student working toward a degree in teaching who is a student teacher in a school within the superintendent's or headmaster's jurisdiction.

(b) After signing a user agreement, a superintendent or a headmaster shall make a request directly to the Vermont criminal information center. A contractor shall make a request through a superintendent or headmaster.

(c) A request made under subsection (b) of this section shall be accompanied by a set of the person's fingerprints and a fee established by the Vermont criminal information center which shall reflect the cost of obtaining the record from the FBI. The fee shall be paid in accordance with adopted school board policy.

** * **

(h) A superintendent or headmaster shall request and obtain information from the child protection registry maintained by the department for children and families and from the vulnerable adult abuse, neglect, and exploitation registry maintained by the department of disabilities, aging, and independent living (collectively, the "registries") for any person for whom a criminal record check is required under subsection (a) of this section. The department for children and families and the department of disabilities, aging, and independent living shall adopt rules governing the process for obtaining information from the registries and for disseminating and maintaining records of that information under this subsection.

(i) A person convicted of a sex offense that requires registration pursuant to chapter 167, subchapter 3 of Title 13 shall not be eligible for employment under this section.

(j) The board of trustees of a recognized or approved independent school shall request a criminal record check and a check of the registries pursuant to the provisions of this section prior to offering employment to a headmaster.

Sec. 4. 4 V.S.A. § 952 is amended to read:

§ 952. RULES OF COURT ADMINISTRATOR

(a) The court administrator, subject to the approval of the supreme court, shall make rules regarding the qualifications, lists, and selection of all jurors and prepare questionnaires for prospective jurors. Each superior court clerk shall, in conformity with the rules, prepare a list of jurors from residents of its unit. The rules shall be designed to assure that the list of jurors prepared by the ~~jury commission~~ superior court clerk shall be representative of the citizens of its unit in terms of age, sex, occupation, economic status, and geographical distribution.

(b) Rules adopted under this section shall be consistent with the provisions of this chapter.

Sec 5. 20 V.S.A. § 2056b is amended to read:

§ 2056b. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO PERSONS CONDUCTING RESEARCH

(a) The Vermont criminal information center may provide Vermont criminal history records as defined in section 2056a of this title to bona fide persons conducting research related to the administration of criminal justice, subject to conditions approved by the commissioner of public safety to assure the confidentiality of the information and the privacy of individuals to whom the information relates. Bulk criminal history data requested by descriptors other than the name and date of birth of the subject may only be provided in a format that excludes the subject's name and any unique numbers that may reference the identity of the subject, except that court docket numbers and the state identification number may be provided. Researchers ~~must~~ shall sign a user agreement which specifies data security requirements and restrictions on use of identifying information.

(b) No person shall confirm the existence or nonexistence of criminal history record information to any person other than the subject and properly designated employees of an organization who have a documented need to know the contents of the record.

(c) A person who violates the provisions of this section with respect to unauthorized disclosure of confidential criminal history record information obtained from the center under the authority of this section shall be fined not

more than \$5,000.00. Each unauthorized disclosure shall constitute a separate civil violation.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.