

1 H.364

2 Introduced by Representatives McDonald of Berlin, Baker of West Rutland,
3 Branagan of Georgia, Brennan of Colchester, Canfield of Fair
4 Haven, Crawford of Burke, Dickinson of St. Albans Town,
5 Donaghy of Poultney, Fagan of Rutland City, Flory of Pittsford,
6 Howrigan of Fairfield, Hube of Londonderry, Hubert of Milton,
7 Johnson of Canaan, Koch of Barre Town, Krawczyk of
8 Bennington, Lewis of Derby, Marcotte of Coventry, McAllister
9 of Highgate, McNeil of Rutland Town, Morrissey of
10 Bennington, Myers of Essex, O'Donnell of Vernon, Savage of
11 Swanton, Turner of Milton, Wheeler of Derby, Winters of
12 Williamstown and Wright of Burlington

13 Referred to Committee on

14 Date:

15 Subject: Crimes and criminal procedure; crime victims; sex offender registry

16 Statement of purpose: This bill proposes to increase the number of sex
17 offenders who are required to register with the state, including offenders whose
18 crimes predated the Vermont sex offender registry and minors adjudicated
19 delinquent for committing sexual assault on a child. The bill requires sex
20 offenders to provide more information to the sex offender registry. It expands
21 the registry information that is available to the public and which is posted on

1 the Internet. It also expands the minimum duration period of registration for
2 sex offenders. Finally, it requires sex offenders to make periodic in-person
3 appearances in order to verify information that is contained in the registry.

4 An act relating to sex offender registration

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

6 Sec. 1. 13 V.S.A. § 2635 is amended to read:

7 § 2635. SLAVE TRAFFIC

8 (a) A person shall not:

9 (1) Induce, entice₂ or procure a person to come into the state or to go
10 from the state for the purpose of prostitution or for any immoral purpose or to
11 enter a house of prostitution in the state;

12 (2) Wilfully or knowingly aid such person in obtaining transportation to
13 or within the state for such purposes;

14 (3) Place a person in the charge or custody of another person for
15 immoral purposes or in a house of prostitution;

16 (4) Induce, entice, procure₂ or compel such person to reside in a house
17 of prostitution; ~~or~~

18 (5) Induce, entice, procure₂ or compel such person to live a life of
19 prostitution; or

1 (6) Induce, entice, or procure a minor to come into the state or to go
2 from the state for the purpose of engaging in any activity which can be charged
3 as a sex offense under Vermont law.

4 (b) A person violating a provision hereof shall be imprisoned not more than
5 ten years nor less than one year or fined not more than \$2,000.00 nor less than
6 \$200.00, or both.

7 Sec. 2. 13 V.S.A. § 2638 is added to read:

8 § 2638. TRANSPORTATION WITH INTENT TO ENGAGE IN SEXUAL
9 ACTIVITY

10 A person who knowingly transports a minor in interstate or foreign
11 commerce, or in any commonwealth, territory, or possession of the United
12 States, with the intent that the individual engage in prostitution or any sexual
13 activity that can be charged as a crime, shall be fined not more than \$5,000.00
14 and imprisoned not less than five years and not more than 30 years.

15 Sec. 3. 13 V.S.A. § 2639 is added to read:

16 § 2639. SEX TRAFFICKING OF A CHILD OR BY FORCE, FRAUD, OR
17 COERCION

18 (a) A person shall not knowingly recruit, entice, harbor, transport, provide,
19 or obtain by any means in or affecting interstate or foreign commerce, or
20 within the special maritime or territorial jurisdiction of the United States, a
21 person for the purpose of engaging in a commercial sex act.

1 (b) A person shall not knowingly benefit financially or otherwise from
2 participating in a venture in violation of subsection (a) of this section, knowing
3 that force, fraud, or coercion will be used to cause a person less than 18 years
4 old to engage in a commercial sexual act.

5 (c) A person who violates this section shall be punished as follows:

6 (1) If the violation was effected by force, fraud, or coercion or if the
7 person recruited, harbored, transported, provided, or obtained was less than 14
8 years old at the time of the offense, by imprisonment for any term of years or
9 for life.

10 (2) If the offense was not effected by force, fraud, or coercion and the
11 person recruited, harbored, transported, provided, or obtained was older than
12 14 years but less than 18 years old at the time of the offense, by a fine of not
13 more than \$20,000.00 or imprisonment for not more than 40 years, or both.

14 (d) As used in this section:

15 (1) "Coercion" means:

16 (A) threats of serious harm to or physical restraint of any person; or

17 (B) any scheme, plan, or pattern intended to cause a person to believe
18 that the failure to perform an act would result in serious harm to or physical
19 restraint of any person; or

20 (C) the abuse or threatened abuse of any law or legal process.

1 (2) “Commercial sex act” means any sexual act for which anything of
2 value is given to or received by any person.

3 (3) “Venture” means any group of two or more individuals associated in
4 fact, whether or not a legal entity.

5 Sec. 4. 13 V.S.A. § 5401 is amended to read:

6 § 5401. DEFINITIONS

7 As used in this subchapter:

8 (1) “Address” means the actual location of the sex offender’s dwelling,
9 including the street address, if any.

10 (2) “Department” means the department of public safety.

11 (3) “Local law enforcement agency” means the municipal police
12 department or statutorily established college or university police department.

13 If the municipality, college, or university has no police department, the law
14 enforcement agency that serves the municipality, college, or university.

15 (4) ~~“Mental abnormality” means a congenital or acquired condition that~~
16 ~~affects the emotional or volitional capacity of a person in a manner that~~
17 ~~predisposes the person to the commission of criminal sexual acts to a degree~~
18 ~~that makes the person a menace to the health and safety of other persons.~~

19 (5) “Minor” means a person under the age of 18 years.

1 ~~(6)~~ “Personality disorder” means a condition where a person exhibits
2 ~~personality traits which are inflexible and maladaptive and cause either~~
3 ~~significant functional impairment or subjective distress.~~

4 ~~(7)~~ “Predatory” means an act directed at a stranger, or a person with
5 ~~whom a relationship has been established or promoted for the primary purpose~~
6 ~~of victimization.~~

7 ~~(8)~~(5) “Release” means release from confinement or custody or
8 placement into the community for any reason, including release on bail
9 pending appeal, probation, parole, furlough, work release, early release,
10 alternative sanctions, house arrest, daily interrupt, community placement, or
11 completion of sentence. It shall also mean probation or parole supervision of
12 an out-of-state sex offender under an interstate agreement or compact.

13 ~~(9)~~(6) “Registry” means the sex offender registry maintained by the
14 department of public safety.

15 ~~(10)~~(7) “Sex offender” means:

16 (A) A person who is convicted in any jurisdiction of the United
17 States, including a state, territory, commonwealth, the District of Columbia, or
18 military, federal, or tribal court of any of the following offenses:

19 (i) sexual assault as defined in 13 V.S.A. § 3252;

20 (ii) aggravated sexual assault as defined in 13 V.S.A. § 3253;

21 (iii) lewd and lascivious conduct as defined in 13 V.S.A. § 2601;

- 1 (iv) sexual abuse of a vulnerable adult as defined in 13 V.S.A.
2 § 1379;
- 3 (v) ~~second or subsequent conviction for~~ voyeurism as defined in
4 13 V.S.A. § 2605(b) or (c);
- 5 (vi) kidnapping with intent to commit sexual assault as defined in
6 13 V.S.A. § 2405(a)(1)(D); ~~and~~
- 7 (vii) an attempt to commit any offense listed in this subdivision;
- 8 (viii) aggravated sexual assault of a child as defined in 13 V.S.A.
9 § 3253a;
- 10 (ix) kidnapping as defined in 13 V.S.A. § 2405 if the victim is a
11 minor and the offender is not the parent, guardian, or custodian of the victim;
- 12 (x) lewd and lascivious conduct with a child as defined in
13 13 V.S.A. § 2602;
- 14 (xi) use of a child in a sexual performance as defined in 13 V.S.A.
15 § 2822;
- 16 (xii) consenting to a sexual performance as defined in 13 V.S.A.
17 § 2823;
- 18 (xiii) promoting a recording of sexual conduct as defined in
19 13 V.S.A. § 2824;
- 20 (xiv) possession of child pornography as defined in 13 V.S.A.
21 § 2827;

- 1 (xv) luring a child as defined in 13 V.S.A. § 2828;
- 2 (xvi) prohibited acts as defined in 13 V.S.A. § 2632;
- 3 (xvii) slave traffic as defined in 13 V.S.A. § 2635;
- 4 (xviii) transportation with intent to engage in sexual activity as
5 defined in 13 V.S.A. § 2638;
- 6 (xix) sex trafficking of a child or by force, fraud, or coercion as
7 defined in 13 V.S.A. § 2639;
- 8 (xx) procurement or solicitation as defined in 13 V.S.A.
9 § 2632(a)(6) where the victim is a minor;
- 10 (xxi) any offense which the court finds or the offender agrees
11 pursuant to a plea agreement was committed with the intent to commit any
12 other offense listed in this subdivision (7)(A);
- 13 (xxii) a federal conviction for any of the following:
- 14 (I) sex trafficking of children as defined in 18 U.S.C. § 1591;
- 15 (II) aggravated sexual abuse as defined in 18 U.S.C. § 2241;
- 16 (III) sexual abuse as defined in 18 U.S.C. § 2242;
- 17 (IV) sexual abuse of a minor or ward as defined in 18 U.S.C.
18 § 2243;
- 19 (V) abusive sexual contact as defined in 18 U.S.C. § 2244;
- 20 (VI) offenses resulting in death as defined in 18 U.S.C. § 2245;

1 (VII) sexual exploitation of children as defined in 18 U.S.C.
2 § 2251;

3 (VIII) selling or buying of children as defined in 18 U.S.C.
4 § 2251A;

5 (IX) material involving the sexual exploitation of minors as
6 defined in 18 U.S.C. § 2252;

7 (X) material containing child pornography as defined in
8 18 U.S.C. § 2252A;

9 (XI) misleading domain names on the Internet as defined in
10 18 U.S.C. § 2252B;

11 (XII) misleading words or digital images on the Internet as
12 defined in 18 U.S.C. § 2252C;

13 (XIII) production of sexually explicit depictions of a minor for
14 import into the United States as defined in 18 U.S.C. § 2260;

15 (XIV) transportation of a minor for illegal sexual activity as
16 defined in 18 U.S.C. § 2421;

17 (XV) coercion and enticement of a minor for illegal sexual
18 activity as defined in 18 U.S.C. § 2422;

19 (XVI) transportation of minors for illegal sexual activity, travel
20 with the intent to engage in illicit sexual conduct with a minor, or engaging in
21 illicit sexual conduct in foreign places as defined in 18 U.S.C. § 2423;

1 (XVII) failure to file factual statement about an alien individual
2 as defined in 18 U.S.C. § 2424; or

3 (XVIII) transmitting information about a minor to further
4 criminal sexual conduct as defined in 18 U.S.C. § 2425;

5 (xxiii) a military offense specified by the United States Secretary
6 of Defense under section 115(a)(8)(c)(i) of Public Law 105-119 (10 U.S.C.
7 § 951 note); and

8 (xxiv) an attempt or conspiracy to commit any offense listed in
9 this subdivision (7)(A).

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

15 ~~(i) any offense listed in subdivision (A) of this subdivision (10);~~

16 ~~(ii) kidnapping as defined in 13 V.S.A. § 2405(a)(1)(D);~~

17 ~~(iii) lewd and lascivious conduct with a child as defined in~~
18 ~~13 V.S.A. § 2602;~~

19 ~~(iv) white slave traffic as defined in 13 V.S.A. § 2635;~~

20 ~~(v) sexual exploitation of children as defined in 13 V.S.A. chapter~~
21 ~~64;~~

1 ~~(vi) or procurement or solicitation as defined in 13 V.S.A.~~

2 ~~§ 2632(a)(6);~~

3 ~~(vii) an attempt to commit any offense listed in this subdivision.~~

4 ~~(C)~~ A person who takes up residence within this state, other than
5 within a correctional facility, or who is employed, carries on a vocation, or is a
6 student in the state, and who has been convicted in any jurisdiction of the
7 United States, including a state, territory, commonwealth, the District of
8 Columbia, or military, federal, or tribal court, or a foreign nation, for a sex
9 crime the elements of which ~~would constitute a crime under subdivision~~
10 ~~(10)(A) or (B)~~ are substantially similar to the elements of any of the crimes
11 listed in subdivision (7)(A) of this section if committed in this state.

12 ~~(D) A nonresident sex offender who crosses into Vermont and who is~~
13 ~~employed, carries on a vocation, or is a student.~~

14 (C) A person who takes up residence within the state, other than
15 within a correctional facility, or who is employed, carries on a vocation or is a
16 student in the state, and who is or was ever required to register as a sex
17 offender in any jurisdiction of the United States, including a state, territory,
18 commonwealth, the District of Columbia, or military, federal, or tribal court, or
19 a foreign nation prior to taking up residence in this state, or crossing into this
20 state to be employed, carry on a vocation, or be a student.

1 (D) A person convicted of any offense who by the terms of a plea
2 agreement or court order is required to register pursuant to this chapter.

3 (E) A person who is or intends to be temporarily in the state for a
4 period of 10 or more consecutive days, or 30 days over the course of
5 12 months, and who is required to register in another jurisdiction as a sex
6 offender.

7 (F) A juvenile 14 years of age or older at the time of the adjudication
8 who is:

9 (i) adjudicated as a delinquent for committing, attempting, or
10 conspiring to commit a sexual assault as defined in 13 V.S.A. § 3252(a) or (b),
11 aggravated sexual assault as defined in 13 V.S.A. § 3253, or any other offense
12 set out in subdivision (7)(A) of this section where the court finds that force or
13 the threat of force was involved or that the act was committed by rendering the
14 victim unconscious or by drugging the victim; or

15 (ii) adjudicated in any other jurisdiction of the United States,
16 including a state, territory, commonwealth, the District of Columbia, federal or
17 tribal court as having committed, attempted, or conspired to commit an offense
18 substantially similar to sexual assault as defined in 13 V.S.A. § 3252(a) or (b),
19 aggravated sexual assault as defined in 13 V.S.A. § 3253 or any other offense
20 set out in subdivision (7)(A) of this section where that jurisdiction found that

1 force or the threat of force was involved or that the act was committed by
2 rendering the victim unconscious or by drugging the victim.

3 ~~(11) “Sexually violent offense” means sexual assault or aggravated~~
4 ~~sexual assault, as described in 13 V.S.A. §§ 3252 and 3253, or a comparable~~
5 ~~offense in another jurisdiction of the United States, or any attempt to commit~~
6 ~~sexual assault, aggravated sexual assault, or a comparable offense in another~~
7 ~~jurisdiction of the United States.~~

8 ~~(12) “Sexually violent predator” means a person who is a sex offender,~~
9 ~~who has been convicted of a sexually violent offense, as defined in subdivision~~
10 ~~(11) of this section, and who suffers from a mental abnormality or personality~~
11 ~~disorder that makes the person likely to engage in predatory sexually violent~~
12 ~~offenses.~~

13 ~~(13)~~(8) “Employed, carries on a vocation” includes employment that is
14 full-time or part-time for a period of time exceeding 14 days or for an
15 aggregate period of time exceeding 30 days during any calendar year, whether
16 financially compensated, volunteered, or for the purpose of governmental or
17 educational benefit. It also includes self-employment.

18 ~~(14)~~(9) “Student” means a person who is enrolled on a full-time or
19 part-time basis in any public or private educational institution in Vermont,
20 including any secondary school, trade or professional institution, or institution
21 of higher learning.

1 ~~(15)~~(10) “Conviction” means a judgment of guilt following a verdict or
2 finding of guilt, a plea of guilty, a plea of nolo contendere, an Alford Plea, or a
3 judgment of guilt pursuant to a deferred sentence. ~~A sex offender whose~~
4 ~~sentence is deferred shall have no duty to register~~ For purposes of this
5 subchapter, a conviction shall include a conviction pursuant to a deferred
6 sentence agreement even after successful completion of the terms of the
7 deferred sentence agreement ~~for the duration specified in the agreement.~~ For
8 purposes of this subchapter, a conviction shall also include the adjudication of
9 a juvenile 14 years of age or older at the time of the adjudication for
10 committing, attempting, or conspiring to commit sexual assault as defined in
11 13 V.S.A. § 3252(a) or (b), aggravated sexual assault as defined in 13 V.S.A.
12 § 3253 or any other offense set out in subdivision (7)(A) of this section where
13 the court finds that force or the threat of force was involved, or is adjudicated
14 in any jurisdiction of the United States, including a state, territory,
15 commonwealth, the District of Columbia, or military, federal, or tribal court as
16 having committed, attempted, or conspired to commit an offense substantially
17 similar to sexual assault as defined in 13 V.S.A. § 3252(a) or (b), aggravated
18 sexual assault as defined in 13 V.S.A. § 3253, or any other offense set out in
19 subdivision (7)(A) of this section where the court finds that force or the threat
20 of force was involved.

1 ~~(16)~~(11) “Risk” means the degree of dangerousness that a sex offender
2 poses to others. “High-risk” means a high degree of dangerousness that a sex
3 offender poses to others. Dangerousness includes the probability of a sexual
4 reoffense.

5 Sec. 5. 13 V.S.A. § 5402a is added to read:

6 § 5402a. SEX OFFENDER DESIGNATION

7 (a) Sex offenders shall be designated as follows:

8 (1) TIER I SEX OFFENDER – The term “tier I sex offender” means a
9 sex offender other than a tier II or tier III sex offender.

10 (2) TIER II SEX OFFENDER – The term “tier II sex offender” means a
11 sex offender other than a tier III sex offender whose offense either occurs after
12 the offender becomes a tier I sex offender or:

13 (A) has been convicted for the commission, attempt or conspiracy to
14 commit any one of the following:

15 (i) kidnapping with the intent to commit sexual assault as defined
16 in 13 V.S.A. § 2405(a)(1)(D) or kidnapping with the intent to commit another
17 offense as defined in 13 V.S.A. § 2405(a)(1)(E) if the crime facilitated is an
18 offense listed in 13 V.S.A. § 5401(7);

19 (ii) lewd and lascivious conduct with a child as defined in
20 13 V.S.A. § 2602;

1 (iii) use of a child in a sexual performance as defined in 13 V.S.A.

2 § 2822;

3 (iv) consenting to a sexual performance as defined in 13 V.S.A.

4 § 2823;

5 (v) promoting a recording of sexual conduct as defined in

6 13 V.S.A. § 2824;

7 (vi) luring a child as defined in 13 V.S.A. § 2828;

8 (vii) slave traffic as defined in 13 V.S.A. § 2635 where the victim

9 is a minor;

10 (viii) procurement or solicitation as defined in 13 V.S.A.

11 § 2632(a)(6);

12 (ix) transportation with intent to engage in criminal sexual activity

13 as defined in 13 V.S.A. § 2638;

14 (x) sex trafficking of children or by force, fraud, or coercion as

15 defined in 13 V.S.A. § 2639; or

16 (xi) sexual abuse of a vulnerable adult as defined in 13 V.S.A.

17 § 1379(b);

18 (B) has been convicted in a federal court for committing, attempting

19 to commit, or conspiring to commit;

20 (i) sexual abuse of a minor as defined in 18 U.S.C. § 2243;

1 (ii) abusive sexual contact as defined in 18 U.S.C. § 2244 if the
2 victim is 13 years of age or older;

3 (iii) sexual exploitation of children as defined in 18 U.S.C.
4 § 2251;

5 (iv) selling or buying of children as defined in 18 U.S.C. § 2251A;

6 (v) material involving the sexual exploitation of minors as defined
7 in 18 U.S.C. § 2252;

8 (vi) material containing child pornography as defined in 18 U.S.C.
9 § 2252A;

10 (vii) production of sexually explicit depictions of a minor for
11 import into the United States as defined in 18 U.S.C. § 2260;

12 (viii) transportation of a minor for illegal sexual activity as
13 defined in 18 U.S.C. § 2421;

14 (ix) coercion and enticement of a minor for illegal sexual activity
15 as defined in 18 U.S.C. § 2422;

16 (x) transportation of minors for illegal sexual activity, travel with
17 the intent to engage in illicit sexual conduct with a minor, engaging in illicit
18 sexual conduct in foreign places as defined in 18 U.S.C. § 2423;

19 (C) has been convicted for a military offense which is comparable to
20 another offense in this subdivision (2) and is specified by the United States

1 Secretary of Defense under section 115(a)(8)(c)(i) of Public Law 105-119
2 (10 U.S.C. § 951 note).

3 (3) TIER III SEX OFFENDER – The term “tier III sex offender” means
4 a sex offender who either commits his or her offense after the offender
5 becomes a tier II sex offender or:

6 (A) has been convicted of committing, attempting to commit or
7 conspiring to commit:

8 (i) sexual assault as defined in section 3252 of this title,
9 aggravated sexual assault as defined in section 3253 or aggravated sexual
10 conduct with a child as defined in section 3254 of this title; however, if a
11 person convicted under section 3252 is not more than six years older than the
12 victim of the assault and if the victim is 14 years or older, then the offender
13 shall not be required to register for life if the age of the victim was the basis for
14 the conviction;

15 (ii) lewd and lascivious conduct as defined in 13 V.S.A. § 2601 or
16 2602 against a minor who has not attained the age of 13 years; or

17 (iii) an offense involving the kidnapping of a minor (unless
18 committed by a parent or guardian).

19 (B) has been convicted in a federal court for committing, attempting
20 to commit, or conspiring to commit:

21 (i) aggravated sexual abuse as defined in 18 U.S.C. § 2241;

1 (ii) sexual abuse as defined in 18 U.S.C. § 2242; or

2 (iii) abusive sexual contact as defined in 18 U.S.C. § 2244;

3 (C) has been convicted of a military offense which is comparable to
4 another offense in this subdivision (3) and is specified by the United States
5 Secretary of Defense under section 115(a)(8)(c)(i) of Public Law 105-119
6 (10 U.S.C. § 951 note); or

7 (D) has been designated as a high-risk sex offender pursuant to
8 section 5411b of this title.

9 Sec. 6. 13 V.S.A. § 5402b is added to read:

10 § 5402b. SEX OFFENDER'S RESPONSIBILITY TO REGISTER

11 (a) Every sex offender shall register with the department and provide all
12 information set out in subdivision 5403(a)(3) of this title within three business
13 days of the following:

14 (1) a conviction for a sex offense as set out in subdivision 5401(7) of
15 this title if not serving an incarcerative sentence;

16 (2) a conviction for an offense not set out in subdivision 5401(7) of this
17 title if the sex offender is not currently registered in the sex offender registry
18 for the prior sex offense;

19 (3) release from incarceration for a sex offense as set out in subdivision
20 5401(7) of this title;

1 (4) release from incarceration for an offense not set out in subdivision
2 5401(7) of this title, if the sex offender is not currently registered in the sex
3 offender registry for the prior sex offense;

4 (5) establishing residence in this state or crossing into this state for
5 purposes of employment, carrying on a vocation, or being a student; or

6 (6) crossing into this state for a temporary stay of 10 or more
7 consecutive days or 30 days over the course of 12 months.

8 (b) The obligation to register may not be waived by agreement or court
9 order.

10 (c) Duration of registration requirement. A person required to register as a
11 sex offender under this subchapter shall continue to comply with this section
12 for the remainder of his or her life. This subsection shall apply to those
13 offenders registered at the time that this subsection becomes effective as well
14 as those offenders whose registration requirements begin after that date.

15 Sec. 7. 13 V.S.A. § 5403 is amended to read:

16 § 5403. REPORTING UPON CONVICTION

17 (a) Upon conviction and prior to sentencing, the court shall ~~order the sex~~
18 ~~offender to provide the court with the following information, which the court~~
19 ~~shall forward to the department forthwith:~~

20 (1) ~~name~~ inform the sex offender of the duties of a sex offender under
21 this chapter and explain those duties;

1 (2) ~~date of birth~~ require the sex offender to read and sign a form stating
2 that the duty to register has been explained and that the sex offender
3 understands the registration requirement;

4 (3) ~~general physical description;~~ order the sex offender to provide the
5 court with the following information, which the court shall forward to the
6 department forthwith:

7 (4) ~~current address;~~

8 (5) ~~Social Security number;~~

9 (6) ~~fingerprints;~~

10 (7) ~~current photograph;~~

11 (8) ~~current employment; and~~

12 (9) ~~name and address of any postsecondary educational institution at~~
13 ~~which the sex offender is enrolled as a student.~~

14 (b) ~~Within 10 days after sentencing, the court shall forward to the~~
15 ~~department the sex offender's conviction record, including offense, date of~~
16 ~~conviction, sentence and any conditions of release or probation.~~

17 (i) the name of and any aliases used by the sex offender including
18 primary or given names, nicknames, and pseudonyms, any designations or
19 monikers used for self-identification in Internet communications or postings,
20 and ethnic or tribal names by which the offender is commonly known;

21 (ii) the offender's actual and any purported dates of birth;

1 (iii) a general physical description, including any identifying
2 marks;

3 (iv) the text of the provision of law defining the criminal offense
4 for which the sex offender is registered;

5 (v) the criminal history of the sex offender, including the dates of
6 all arrests and convictions; the status of parole, probation, or supervised
7 release; whether the sex offender is in violation of the registration requirements
8 or cannot be located; and the existence of any outstanding arrest warrants for
9 the sex offender;

10 (vi) the offender's current address, including temporary lodging if
11 the offender is away from his or her residence for seven or more days, and the
12 exact location where the offender habitually lives if he or she has no permanent
13 address;

14 (vii) telephone numbers for both fixed-location telephones and
15 cell phones;

16 (vii) vehicle information, including the license plate number,
17 registration number, a description, including make, model, and color, of any
18 vehicle owned or operated by the sex offender whether for personal or
19 work-related use, and the location where the vehicle is frequently or
20 permanently kept. For the purposes of this subchapter, a vehicle is any

1 motor-driven conveyance designed to carry its operator and includes all land
2 vehicles, watercraft, and aircraft;

3 (ix) actual and all purported Social Security numbers;

4 (x) a photocopy of a valid driver's license or identification card
5 issued to the sex offender by the state of Vermont and all other jurisdictions;

6 (xi) Internet identifiers and addresses, including all electronic mail
7 addresses and instant message addresses or identifiers;

8 (xii) the location of all electronic communication devices which
9 are owned or used by the offender or which the offender intends to use and
10 which have the ability to send or receive text, SMS (short message service)
11 messages, electronic mail, or browse the Internet. This includes cell phones,
12 personal digital assistants, computers, computer software, computer hardware,
13 computer disks, computer disk drives, tape drives, disk application programs,
14 data disks, disk operating systems, magnetic media floppy disks, zip drives,
15 CD-ROMs, DVD-ROMs, all other removable media, digital cameras, and
16 electronically-stored data;

17 (xiii) fingerprints and palm prints;

18 (xiv) a DNA sample of the sex offender;

19 (xv) a current digital photograph;

1 (xvi) travel and immigration documents, including information
2 about the offender's passport and any information about documents
3 establishing his or her immigration status;

4 (xvii) the name and address of any place where the sex offender is
5 an employee or will be an employee, including self-employment, transient
6 employment and day labor, volunteer or unpaid intern work, and, if the sex
7 offender is employed but does not have a definite employment address, other
8 information about where the sex offender works;

9 (xviii) information concerning all licensing of the sex offender
10 that authorizes the offender to engage in an occupation or carry on a trade or
11 business; and

12 (xix) the name and address of any educational institution at which
13 the sex offender is or will be enrolled as a student, including a public or private
14 secondary school, a trade or professional school, or an institution of higher
15 education.

16 (b) Within 3 days after sentencing, the court shall forward to the
17 department, in a manner prescribed by the department, the sex offender's
18 conviction record, including information regarding the offense, date of
19 conviction, sentence, and any conditions of release or probation.

20 (c) This section shall also apply to sex offenders who were no longer under
21 the supervision of the department of corrections and were not registered as a

1 sex offender on the effective date of this subsection, but who are convicted
2 after the effective date of this subsection of any other offense, whether or not
3 that offense is an offense set out in subdivision 5401(7) of this title.

4 (d) Within three days of issuing a warrant for a sex offender or within three
5 days of vacating such a warrant, the court shall notify the department of such
6 action.

7 (e) In the event of a conviction for an offense which the court finds or the
8 offender agrees pursuant to a plea agreement was committed with the intent to
9 commit any other offense listed in subdivision 5401(7)(A) of this title, the
10 state's attorney prosecuting the case shall notify the department of that
11 conviction within three days after the conviction.

12 (f) Failure by the department of corrections to inform the sex offender of
13 his or her registration obligations shall not constitute a defense to a charge that
14 the offender failed to register as a sex offender or failed in any other way to
15 comply with the requirements of this subchapter.

16 Sec. 8. 13 V.S.A. § 5404 is amended to read:

17 § 5404. REPORTING UPON RELEASE FROM CONFINEMENT OR
18 SUPERVISION

19 (a) Upon receiving a sex offender from the court on a probationary
20 sentence or any alternative sentence under community supervision by the
21 department of corrections, or prior to releasing a sex offender from

1 confinement or supervision, the department of corrections shall forward to the
2 department the following information concerning the sex offender:

3 (1) ~~an update of the information listed in subsection 5403(a) of this title~~
4 inform the sex offender of the duties of a sex offender under this subchapter
5 and explain those duties;

6 (2) ~~the address upon release~~ inform the sex offender that if the sex
7 offender moves to another state, the sex offender shall notify the department of
8 the new address and shall also register with the designated law enforcement
9 agency in the new state not later than three days after establishing residence in
10 the new state, if the new state has a registration requirement;

11 (3) ~~name, address, and telephone number of the local department of~~
12 ~~corrections office in charge of monitoring the sex offender~~ inform the sex
13 offender that if he or she crosses into another state for purposes of
14 employment, carrying on a vocation, or being a student, the sex offender must
15 notify the department of the new address and shall register with the designated
16 law enforcement agency in the other state if the other state has a registration
17 requirement; and

18 (4) ~~documentation of any treatment or counseling received~~ require the
19 sex offender to read and sign a form stating that the duty to register has been
20 explained, and that the sex offender understands the registration requirement;
21 and

1 (5) forward to the department, in a manner prescribed by the
2 department, the registration form and the following information concerning the
3 sex offender:

4 (i) an update of the information listed in subdivision 5403(a)(3) of
5 this title;

6 (ii) the address upon release;

7 (iii) the name, address, and telephone number of the local
8 department of corrections office in charge of monitoring the sex offender; and

9 (iv) documentation of any treatment or counseling received.

10 (b) Failure by the department of corrections to inform the sex offender of
11 his or her registration obligations shall not constitute a defense to a charge that
12 the offender failed to register as a sex offender or failed in any other way to
13 comply with the requirements of this subchapter.

14 ~~(b)~~(c) The department of corrections shall notify the department within 24
15 hours of the time a sex offender changes his or her address or place of
16 employment, or enrolls in or separates from any postsecondary educational
17 institution. In addition, the department of corrections shall provide the
18 department with any updated information requested by the department.

19 ~~(e)~~(d) The information required to be provided by subsection (a) of this
20 section shall also be provided by the department of corrections to a sex

1 offender's parole or probation officer within three days of the time a sex
2 offender is placed on probation or parole by the court or parole board.

3 ~~(d)~~(e) If it has not been previously submitted, upon receipt of the
4 information to be provided to the department pursuant to subsection (a) of this
5 section, the department shall immediately transmit the conviction data and
6 fingerprints to the Federal Bureau of Investigation.

7 (f) This section shall apply to sex offenders who were no longer under the
8 supervision of the department of corrections or registered as a sex offender on
9 the effective date of this subsection, but who are convicted after the effective
10 date of this subsection for any other offense, whether or not that offense is an
11 offense set out in subdivision 5401(7) of this title. It shall also apply to sex
12 offenders who were under the supervision of the department of corrections on
13 the effective date of this subsection for a sex offense committed prior to that
14 effective date.

15 Sec. 9. REPEAL

16 The following sections in Title 13 are repealed:

17 (1) § 5405; and

18 (2) § 5406.

1 Sec. 10. 13 V.S.A. § 5407 is amended to read:

2 § 5407. SEX OFFENDER'S RESPONSIBILITY TO REPORT AND TO
3 NOTIFY DEPARTMENT

4 (a) Except as provided in section 5411d of this title, a sex offender shall
5 report in person to the department and shall provide the information listed in
6 subsection 5403(a) of this title as follows:

7 (1) ~~if convicted of a registry offense in another state, within 10 days~~
8 ~~after either establishing residence in this state or crossing into this state for~~
9 ~~purposes of employment, carrying on a vocation, or being a student, the sex~~
10 ~~offender shall provide the information listed in subsection 5403(a) of this title~~
11 within three business days of sentencing for the registry offense if the offender
12 is not incarcerated;

13 (2) ~~annually within 10 days after the registrant's birthday, or if a person~~
14 ~~is determined to be a sexually violent predator, that person shall report to the~~
15 ~~department every 90 days prior to being released from incarceration for the~~
16 registration offense. For the purposes of this subdivision, an in-person
17 appearance is not required;

18 (3) ~~within three days after any change of address, or if a person is~~
19 ~~designated as a high-risk sex offender pursuant to section 5411b of this title,~~
20 ~~that person shall report to the department within 36 hours if convicted of a~~
21 registry offense in another state, foreign, federal, or military court, within three

1 days after either establishing residence in this state or crossing into this state
2 for purposes of employment, carrying on a vocation, or being a student;

3 (4) ~~within three days after the registrant enrolls in or separates from any~~
4 ~~postsecondary educational institution~~ annually within ten days after the
5 registrant's birthday if the offender is a Tier I sex offender; every six months if
6 the offender is a Tier II sex offender, and every three months if the offender is
7 a Tier III sex offender;

8 (5) ~~within three days after any change in place of employment of~~
9 address; and

10 (6) ~~within three days of any name change~~ after the registrant enrolls in
11 or separates from any postsecondary educational institution;

12 (7) within three days after any change in place of employment; and

13 (8) within three days of any name change.

14 (b) The report required by subsection 5407(a) of this title shall include a
15 verification by the offender, in a manner prescribed by the department, of all
16 information required by sections 5403 and 5404 of this title, and shall include
17 the taking of a current digital photograph of the offender.

18 (c) A registrant who has no permanent address shall report to and notify the
19 department of his or her temporary residence. For purposes of this section, a
20 temporary residence means a specific location. A registrant shall not be
21 required to check in daily if he or she makes other arrangements acceptable

1 with the department to keep his or her information current. The department
2 may enter into an agreement with a local law enforcement agency to perform
3 this function, but shall maintain responsibility for compliance with this
4 subsection.

5 ~~(b)~~(d) If a sex offender changes residence to another state, or crosses into
6 another state for purposes of employment, carrying on a vocation, or being a
7 student, the sex offender shall notify the department of the new address and
8 shall also register with the designated law enforcement agency in the new state
9 not later than three days after establishing residence in the new state, if the new
10 state has a registration requirement.

11 ~~(e)~~(e) Upon a sex offender's change of residence to another state, or
12 crossing into another state for purposes of employment, carrying on a vocation,
13 or being a student, the department shall ~~immediately~~ within three business days
14 notify by electronic forwarding the designated law enforcement agency in the
15 new state, if the new state has a registration requirement.

16 ~~(d) The report required by this section shall include the information~~
17 ~~required by sections 5403 and 5404 of this chapter.~~

18 ~~(e) Except as provided for in subsection (f) of this section, a person~~
19 ~~required to register as a sex offender under this subchapter shall continue to~~
20 ~~comply with this section, except during periods of incarceration, until 10 years~~
21 ~~have elapsed since the person was released from prison or discharged from~~

1 ~~parole, supervised release, or probation, whichever is later. The 10-year period~~
2 ~~shall not be affected or reduced in any way by the actual duration of the~~
3 ~~offender's sentence as imposed by the court, nor shall it be reduced by the sex~~
4 ~~offender's release on parole or ending of probation or other early release.~~

5 (f) ~~A person required to register as a sex offender under this subchapter~~
6 ~~shall continue to comply with this section for the life of that person, except~~
7 ~~during periods of incarceration, if that person:~~

8 (1) ~~has at least one prior conviction for an offense described in~~
9 ~~subdivision 5401(10) of this subchapter or a comparable offense in another~~
10 ~~jurisdiction of the United States;~~

11 (2) ~~has been convicted of a sexual assault as defined in section 3252 of~~
12 ~~this title or aggravated sexual assault as defined in section 3253 of this title;~~
13 ~~however, if a person convicted under section 3252 is not more than six years~~
14 ~~older than the victim of the assault and if the victim is 14 years or older, then~~
15 ~~the offender shall not be required to register for life if the age of the victim was~~
16 ~~the basis for the conviction;~~

17 (3) ~~has been determined to be a sexually violent predator pursuant to~~
18 ~~section 5405 of this title; or~~

19 (4) ~~has been designated as a noncompliant high-risk sex offender~~
20 ~~pursuant to section 5411d of this title.~~

1 All changes of information required in section 5403 of this title and not
2 otherwise enumerated in this section shall be reported to the department in
3 writing within seven days of that change.

4 (g) If the registrant no longer resides, is employed, carries on a vocation, or
5 is a student in Vermont, the reporting requirements set out in this section may
6 be satisfied by providing the required information and current photograph in a
7 manner prescribed by the department.

8 (h) If the department is notified that a sex offender is expected to
9 commence residence, employment, or school attendance in Vermont, but the
10 sex offender fails to appear for registration as required, the department shall
11 inform the jurisdiction that provided the notification that the sex offender
12 failed to appear. The department shall also notify the attorney general and a
13 law enforcement agency having jurisdiction to investigate such failure to
14 comply with the registration requirements.

15 ~~(g)(i)~~ The department shall adopt forms and procedures for the purpose of
16 verifying the addresses of persons required to register under this subchapter in
17 accordance with the requirements set forth in section (b)(3) of the Jacob
18 Wetterling Crimes Against Children and Sexually Violent Offender
19 Registration Act. ~~Every 90 days for sexually violent predators and annually~~
20 ~~for other registrants, the department shall verify addresses of registrants by~~
21 ~~sending a nonforwardable address verification form to each registrant at the~~

1 address last reported by the registrant. The registrant shall be required to sign
2 and return the form to the department within 10 days of receipt.

3 (h) A registrant who has no permanent address shall report to the
4 department to notify it as to his or her temporary residence. Temporary
5 residence, for purposes of this section, need not include an actual dwelling or
6 numbered street address, but shall identify a specific location. A registrant
7 shall not be required to check in daily if he or she makes acceptable other
8 arrangements with the department to keep his or her information current. The
9 department may enter into an agreement with a local law enforcement agency
10 to perform this function, but shall maintain responsibility for compliance with
11 this subsection.

12 (j) This section shall apply to sex offenders who were no longer under the
13 supervision of the department of corrections or registered as a sex offender on
14 the effective date of this subsection but who are convicted after the effective
15 date of this subsection of any other offense, whether or not that offense is an
16 offense set out in section 5401(7) of this title.

17 Sec. 12. 13 V.S.A. § 5409 is amended to read:

18 § 5409. PENALTIES

19 (a) Except as provided in subsection (b) of this section, a sex offender who
20 knowingly fails to comply with any provision of this subchapter shall:

1 (1) Be imprisoned for not more than two years or fined not more than
2 \$1,000.00, or both. A sentence imposed under this subdivision shall run
3 consecutively to any sentence being served by the sex offender at the time of
4 sentencing.

5 (2) For the second or subsequent offense, be imprisoned not more than
6 three years or fined not more than \$5,000.00, or both. A sentence imposed
7 under this subdivision shall run consecutively to any sentence being served by
8 the sex offender at the time of sentencing.

9 (b) A sex offender who knowingly fails to comply with any provision of
10 this subchapter for a period of more than five consecutive days shall be
11 imprisoned not more than five years or fined not more than \$5,000.00, or both.
12 A sentence imposed under this subsection shall run consecutively to any
13 sentence being served by the sex offender at the time of sentencing.

14 (c) A sex offender who provides information to the court, the department of
15 public safety, or the department of corrections under this subchapter which he
16 or she knows to be false shall be imprisoned not more than five years or fined
17 not more than \$5,000.00, or both. A sentence imposed under this subsection
18 shall run consecutively to any sentence being served by the sex offender at the
19 time of sentencing.

20 (d) It is presumed that every sex offender knows and understands his or her
21 obligations under this subchapter. Failure of the department of corrections, the

1 state's attorney, the court, or the department of public safety to provide any
2 notice or documentation pursuant to this subchapter is not a defense to a
3 violation of this subchapter.

4 (e) An affidavit by the administrator of the sex offender registry which
5 describes the failure to comply with the provisions of this subchapter shall be
6 prima facie evidence of a violation of this subchapter. Certified records of the
7 registry shall be admissible as a business record.

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

9 § 5411. NOTIFICATION TO LOCAL LAW ENFORCEMENT AND
10 LOCAL COMMUNITY

11 (a) Upon receiving a sex offender's registration materials from the
12 department of corrections, notification that a nonresident sex offender has
13 crossed into Vermont for the purpose of employment, carrying on a vocation,
14 or being a student, or a sex offender's release or change of ~~address, including~~
15 ~~changes of address which involve taking up residence in this state~~ registration
16 information, the department shall immediately notify the local law
17 enforcement agency, the Federal Bureau of Investigation, and the National Sex
18 Offender Registry of the following information, ~~which may be used only for~~
19 ~~lawful law enforcement activities~~:

20 (1) the offender's name and any known aliases;

21 (2) general physical description of the offender;

1 (3) ~~nature of offense~~ the offender's date of birth;

2 (4) ~~sentence~~ the offender's address;

3 (5) ~~the fact that the registry has on file additional information, including~~
4 ~~the sex offender's photograph and fingerprints~~ the date and nature of the
5 offense;

6 (6) ~~current employment~~ sentence;

7 (7) ~~name and address of any postsecondary educational institution at~~
8 ~~which the sex offender is enrolled as a student~~ the fact that the registry has on
9 file additional information, including the sex offender's photograph and
10 fingerprints; and

11 (8) ~~whether the offender complied with treatment recommended by the~~
12 ~~department of corrections~~ whether the offender is under the supervision of the
13 department of corrections, and, if so, the name and telephone number of the
14 local department of corrections office in charge of monitoring the offender;

15 (9) current employment;

16 (10) the name and address of any postsecondary educational institution
17 at which the sex offender is enrolled as a student; and

18 (11) whether the offender complied with treatment recommended by the
19 department of corrections.

20 (b)(1) ~~Except as provided for in subsections (c) and (e) of this section, the~~
21 ~~department, the department of corrections, and any authorized local law~~

1 enforcement agency shall release registry information concerning persons
2 required to register under state law if the requestor can articulate a concern
3 about the behavior of a specific person regarding the requestor's personal
4 safety or the safety of another, or the requestor has reason to believe that a
5 specific person may be a registered sex offender and can articulate a concern
6 regarding the requestor's personal safety or the safety of another. However, the
7 identity of a victim of an offense shall not be released.

8 (2) ~~The department, the department of corrections, and any authorized~~
9 ~~local law enforcement agency shall release the following registry information~~
10 ~~if the requestor meets the requirements in subdivision (1) of this subsection:~~

11 (A) ~~a general physical description of the offender;~~

12 (B) ~~date of birth;~~

13 (C) ~~the date and nature of the offense;~~

14 (D) ~~whether the offender complied with treatment recommended by~~
15 ~~the department of corrections; and~~

16 (E) ~~whether there is an outstanding warrant for the offender's arrest.~~

17 (e)(1) ~~Except as provided for in subsection (e) of this section, upon request~~
18 ~~of a member of the public about a specific person, the department, the~~
19 ~~department of corrections, and any authorized local law enforcement agency~~
20 ~~shall release registry information on sex offenders whose information is~~

1 required to be posted on the internet in accordance with section 5411a of this
2 title.

3 ~~(2) The department, the department of corrections, and any authorized~~
4 ~~local law enforcement agency shall release the following registry information~~
5 ~~to a requestor in accordance with subdivision (1) of this subsection:~~

6 ~~(A) the offender's known aliases;~~

7 ~~(B) the offender's date of birth;~~

8 ~~(C) a general physical description of the offender;~~

9 ~~(D) the offender's town of residence;~~

10 ~~(E) the date and nature of the offender's conviction;~~

11 ~~(F) if the offender is under the supervision of the department of~~
12 ~~corrections, the name and telephone number of the local department of~~
13 ~~corrections office in charge of monitoring the offender;~~

14 ~~(G) whether the offender complied with treatment recommended by~~
15 ~~the department of corrections;~~

16 ~~(H) whether there is an outstanding warrant for the offender's arrest;~~
17 ~~and~~

18 ~~(I) the reason for which the offender information is accessible under~~
19 ~~subdivision (1) of this subsection.~~

20 ~~(3)(A) The department, the department of corrections, and any~~
21 ~~authorized local law enforcement agency may, at the discretion of an~~

1 ~~authorized law enforcement officer, release the current address of an offender~~
2 ~~listed in subdivision (1) of this subsection if the requestor can articulate a~~
3 ~~concern regarding the requestor's personal safety or the safety of another, and~~
4 ~~the requirements of subsection (d) of this section have been satisfied.~~

5 (B) ~~For purposes of this subdivision, "authorized law enforcement~~
6 ~~officer" means a sheriff, a chief of police, the commissioner of public safety,~~
7 ~~the state's attorney of Essex County, or a designee. The designee shall be a~~
8 ~~certified law enforcement officer whose authority is granted or given by the~~
9 ~~sheriff, chief of police, commissioner of public safety, or state's attorney of~~
10 ~~Essex County, either through explicit order or department policy.~~

11 ~~The~~ Upon request by a member of the public for registry information,
12 the department, the department of corrections, and any authorized local law
13 enforcement agency authorized to release registry information shall keep a log
14 of requests for registry information and follow the procedure for verification of
15 the requestor's identity recommended by the department. Such log shall
16 include the requestor's name, address, telephone number, the name of the
17 person for whom the request was made, the reason for the request, and the date
18 of the request. Information about requestors shall be confidential and shall
19 only be accessible to criminal justice agencies may release registry information
20 posted on the internet regarding restraints. However, the identity of a victim of
21 an offense shall not be released.

1 ~~(e) After 10 years have elapsed from the completion of the sentence, a~~
2 ~~person required to register as a sex offender for life pursuant to section 5407 of~~
3 ~~this title who is not designated as a noncompliant high risk sex offender~~
4 ~~pursuant to section 5411d of this title may petition the district court for a~~
5 ~~termination of community notification, including the internet. The state shall~~
6 ~~make a reasonable attempt to notify the victim of the proceeding, and consider~~
7 ~~victim testimony regarding the petition. If the registrant was convicted of a~~
8 ~~crime which requires lifetime registration, there shall be a rebuttable~~
9 ~~presumption that the person is a high risk sex offender. Should the registrant~~
10 ~~present evidence that he or she is not a high-risk offender, the state shall have~~
11 ~~the burden of proof to establish by a preponderance of the evidence that the~~
12 ~~person remains a high risk to reoffend. The court shall consider whether the~~
13 ~~offender has successfully completed sex offender treatment. The cour~~
14 ~~t may require the offender to submit to a psychosexual evaluation. If the court~~
15 ~~finds that there is a high risk of reoffense, notification shall continue. The~~
16 ~~Vermont Rules of Civil Procedure shall apply to these proceedings. A lifetime~~
17 ~~registrant may petition the court to be removed from community notification~~
18 ~~requirements once every 60 months. The presumption under this section that a~~
19 ~~lifetime registrant is a high-risk offender shall not automatically subject the~~
20 ~~offender to increased public access to his or her status as a sex offender and~~

1 ~~related information under subdivision (e)(1) of this section or section 5411a of~~
2 ~~this title.~~

3 ~~(f) Registry information shall not be released under this section unless it is~~
4 ~~released pursuant to written protocols governing the manner and circumstances~~
5 ~~of the release developed by the department, the department of corrections, or~~
6 ~~an authorized law enforcement agency. The protocols shall include~~
7 ~~consultation between the department or agency releasing the information and~~
8 ~~the department of corrections' staff member responsible for supervising the~~
9 ~~offender.~~

10 Sec. 14. 13 V.S.A. § 5411a is amended to read:

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

12 (a) Notwithstanding sections 2056a-2056e of Title 20, the department shall
13 electronically post the following information on the Internet ~~in accordance~~
14 ~~with subsection (b) of this section regarding the following sex offenders,~~
15 regarding sex offenders upon their release from confinement, establishing
16 residence in this state, or crossing into this state for purposes of employment,
17 carrying on a vocation, or being a student, crossing into this state for a
18 temporary stay of seven or more days, or registering pursuant to any other
19 section of this subchapter:

20 (1) ~~Sex offenders who have been convicted of a violation of section~~
21 ~~3253 of this title (aggravated sexual assault), section 2602 of this title (lewd or~~

1 ~~lascivious conduct with child) if the offender has been designated as high risk~~
2 ~~by the department of corrections pursuant to section 5411b of this title, or~~
3 ~~subdivision 2405(a)(1)(D) of this title if a registrable offense (kidnapping and~~
4 ~~sexual assault of a child) The offender's name and any known aliases used by~~
5 ~~the sex offender, including primary or given names, nicknames and~~
6 ~~pseudonyms, any designations or monikers used for self-identification in~~
7 ~~Internet communications or postings, and ethnic or tribal names by which the~~
8 ~~offender is commonly known.~~

9 (2) ~~Sex offenders who have at least one prior conviction for an offense~~
10 ~~described in subdivision 5401(10) of this subchapter The offender's actual and~~
11 ~~all purported dates of birth.~~

12 (3) ~~Sex offenders who have failed to comply with sex offender~~
13 ~~registration requirements and for whose arrest there is an outstanding warrant~~
14 ~~for such noncompliance. Information on offenders shall remain on the Internet~~
15 ~~only while the warrant is outstanding A general physical description of the~~
16 ~~offender including any identifying marks.~~

17 (4) ~~Sex offenders who have been designated as sexual predators~~
18 ~~pursuant to section 5405 of this title A digital photograph of the offender.~~

19 (5)(A) ~~Sex offenders who have not complied with sex offender~~
20 ~~treatment recommended by the department of corrections or who are ineligible~~
21 ~~for sex offender treatment. The department of corrections shall establish rules~~

1 ~~for the administration of this subdivision and shall specify what circumstances~~
2 ~~constitute noncompliance with treatment and criteria for ineligibility to~~
3 ~~participate in treatment. Offenders subject to this provision shall have the right~~
4 ~~to appeal the department of corrections' determination in superior court in~~
5 ~~accordance with Rule 75 of the Vermont Rules of Civil Procedure. This~~
6 ~~subdivision shall apply prospectively and shall not apply to those sex offenders~~
7 ~~who did not comply with treatment or were ineligible for treatment prior to~~
8 ~~March 1, 2005.~~

9 ~~(B) The department of corrections shall notify the department if a sex~~
10 ~~offender who is compliant with sex offender treatment completes his or her~~
11 ~~sentence but has not completed sex offender treatment. As long as the~~
12 ~~offender complies with treatment, the offender shall not be considered~~
13 ~~noncompliant under this subdivision and shall not be placed on the Internet~~
14 ~~registry in accordance with this subdivision alone. However, the offender shall~~
15 ~~submit to the department proof of continuing treatment compliance every three~~
16 ~~months. Proof of compliance shall be a form provided by the department that~~
17 ~~the offender's treatment provider shall sign, attesting to the offender's~~
18 ~~continuing compliance with recommended treatment. Failure to submit such~~
19 ~~proof as required under this subdivision (B) shall result in the offender's~~
20 ~~placement on the Internet registry in accordance with subdivision (A) of this~~
21 ~~subdivision (5) The address of each residence at which the sex offender resides~~

1 or will reside, and, if the sex offender does not have any present or expected
2 residential address, other information about where the sex offender has his or
3 her home or where he or she habitually lives. If current information of this
4 type is not available because the sex offender is in violation of the requirement
5 to register or is not locatable, the website shall so note.

6 (6) ~~Sex offenders who have been designated by the department of~~
7 ~~corrections, pursuant to section 5411b of this title, as high-risk~~ The address of
8 any place where the sex offender is an employee or will be an employee,
9 including self-employment, transient employment and day labor, volunteer or
10 unpaid intern work, and, if the sex offender is employed but does not have a
11 definite employment address, other information about where the sex offender
12 works.

13 (7) The name and address of any place where the sex offender is a
14 student or will be a student.

15 (8) Vehicle information as provided pursuant to section 5403(a)(3) of
16 this title.

17 (9) Internet identifiers and addresses, including all electronic mail
18 addresses and instant message address identifiers.

19 (10) Information concerning all licensing of the sex offender that
20 authorizes the offender to engage in an occupation or carry out a trade or
21 business.

1 (11) The date and nature of the offender's conviction, including the text
2 of the provision of law upon which the conviction is based.

3 (12) Any other sex offense for which the sex offender has been
4 convicted.

5 (13) The criminal history of the sex offender, including the date of all
6 convictions and all arrests which resulted in convictions; the status of parole,
7 probation, or supervised release; and whether the sex offender is in violation of
8 the registration requirements or cannot be located.

9 (14) If the offender is under the supervision of the department of
10 corrections, the name and telephone number of the local department of
11 corrections office in charge of monitoring the sex offender.

12 (15) Whether the offender complied with treatment recommended by the
13 department of corrections.

14 (16) A statement that there is an outstanding warrant for the offender's
15 arrest, if applicable.

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

18 ~~(1) the offender's name and any known aliases;~~

19 ~~(2) the offender's date of birth;~~

20 ~~(3) a general physical description of the offender;~~

21 ~~(4) a digital photograph of the offender;~~

1 ~~(5) the offender's town of residence;~~

2 ~~(6) the date and nature of the offender's conviction;~~

3 ~~(7) if the offender is under the supervision of the department of~~
4 ~~corrections, the name and telephone number of the local department of~~
5 ~~corrections office in charge of monitoring the sex offender;~~

6 ~~(8) whether the offender complied with treatment recommended by the~~
7 ~~department of corrections;~~

8 ~~(9) a statement that there is an outstanding warrant for the offender's~~
9 ~~arrest, if applicable; and~~

10 ~~(10) the reason for which the offender information is accessible under~~
11 ~~this section.~~

12 ~~(e)~~ The department shall have the authority to take necessary steps to
13 obtain digital photographs of offenders whose information is required to be
14 posted on the Internet and to update photographs as necessary. An offender
15 who is requested by the department to report to the department or a local law
16 enforcement agency for the purpose of being photographed for the Internet
17 shall comply with the request within 30 days.

18 ~~(d)(c)~~ An offender's street address shall not be posted electronically. The
19 identity of a victim of an offense that requires registration shall not be released.

1 ~~(e) Information regarding a sex offender shall not be posted electronically~~
2 ~~if the conduct that is the basis for the offense is criminal only because of the~~
3 ~~age of the victim and the perpetrator is within 38 months of age of the victim.~~

4 ~~(f) Information regarding a sex offender shall not be posted electronically~~
5 ~~prior to the offender reaching the age of 18, but such information shall be~~
6 ~~otherwise available pursuant to section 5411 of this title.~~

7 ~~(g)~~(d) Information on sex offenders shall be posted on the Internet for the
8 duration of time for which they are subject to ~~notification~~ registration
9 requirements under section ~~5401 et seq.~~ 5402b of this title.

10 ~~(h)~~(e) Posting of the information shall include the following language:
11 “This information is made available for the purpose of complying with
12 13 V.S.A. § 5401 et seq., which requires the Department of Public Safety to
13 establish and maintain a registry of persons who are required to register as sex
14 offenders and to post electronically information on sex offenders. The registry
15 is based on the legislature’s decision to facilitate access to publicly available
16 information about persons convicted of sexual offenses. ~~EXCEPT FOR~~
17 ~~OFFENDERS SPECIFICALLY DESIGNATED ON THIS SITE AS~~
18 ~~HIGH RISK,~~ THE DEPARTMENT OF PUBLIC SAFETY HAS NOT
19 CONSIDERED OR ASSESSED THE SPECIFIC RISK OF REOFFENSE
20 WITH REGARD TO ANY INDIVIDUAL PRIOR TO HIS OR HER
21 INCLUSION WITHIN THIS REGISTRY AND HAS MADE NO

1 DETERMINATION THAT ANY INDIVIDUAL INCLUDED IN THE
2 REGISTRY IS CURRENTLY DANGEROUS. THE MAIN PURPOSE OF
3 PROVIDING THIS DATA ON THE INTERNET IS TO MAKE
4 INFORMATION MORE EASILY AVAILABLE AND ACCESSIBLE, NOT
5 TO WARN ABOUT ANY SPECIFIC INDIVIDUAL. IF YOU HAVE
6 QUESTIONS OR CONCERNS ABOUT A PERSON WHO IS NOT LISTED
7 ON THIS SITE OR YOU HAVE QUESTIONS ABOUT SEX OFFENDER
8 INFORMATION LISTED ON THIS SITE, PLEASE CONTACT THE
9 DEPARTMENT OF PUBLIC SAFETY OR YOUR LOCAL LAW
10 ENFORCEMENT AGENCY. PLEASE BE AWARE THAT MANY
11 NONOFFENDERS SHARE A NAME WITH A REGISTERED SEX
12 OFFENDER. Any person who uses information in this registry to injure,
13 harass, or commit a criminal offense against any person included in the registry
14 or any other person is subject to criminal prosecution. If you are listed as a sex
15 offender on this site and believe that the information contained herein is
16 erroneous, you may appeal the posting by writing to the commissioner of the
17 Vermont Department of Public Safety, 103 South Main Street, Waterbury,
18 Vermont 05671.”

19 (f) The department shall post electronically general information about the
20 sex offender registry and how the public may access registry information.
21 Electronically posted information regarding sex offenders ~~listed in subsection~~

1 ~~(a) of this section~~ shall be organized and available to search by the sex
2 offender's name ~~and~~, the sex offender's county of residence, a zip code and a
3 geographic radius set by the person searching the electronic postings. The
4 Internet site shall be compliant with and participate in the Dru Sjodin National
5 Sex Offender Public Website. The department may also post electronically
6 any other information designed to educate the public regarding crime
7 prevention and public safety and which may include links to external
8 resources.

9 ~~(j)~~(g) The department shall adopt rules for the administration of this section
10 and shall expedite the process for the adoption of such rules. The department
11 shall not implement this section prior to the adoption of such rules.

12 ~~(k)~~(h) If a sex offender's information is required to be posted electronically
13 ~~pursuant to subdivision (a)(2) of this section~~, the department shall list the
14 offender's convictions for any crime listed in subdivision ~~5401(10)~~ 5401(7) of
15 this title, regardless of the date of the conviction or whether the offender was
16 required to register as a sex offender based upon that conviction.

17 Sec. 15. 13 V.S.A. § 5411b is amended to read:

18 § 5411b. DESIGNATION OF HIGH-RISK SEX OFFENDER

19 (a) The department of corrections may evaluate a sex offender for the
20 purpose of determining whether the offender is "high-risk" as defined in
21 section 5401 of this title. ~~The designation of high-risk under this section is for~~

1 ~~the purpose of identifying an offender as one who should be subject to~~
2 ~~increased public access to his or her status as a sex offender and related~~
3 ~~information, including internet access.~~

4 (b) After notice and an opportunity to be heard, a sex offender who is
5 designated as high-risk shall have the right to appeal de novo to the superior
6 court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

7 (c) The department of corrections shall adopt rules for the administration of
8 this section. The department of corrections shall not implement this section
9 prior to the adoption of such rules.

10 (d) The department of corrections shall identify those sex offenders under
11 the supervision of the department as of the date of passage of this act who are
12 high-risk and shall designate them as such no later than September 1, 2005.

13 Sec. 16. 13 V.S.A. § 5411c is amended to read:

14 § 5411c. ACTIVE COMMUNITY NOTIFICATION BY THE

15 DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF

16 CORRECTIONS, AND LOCAL LAW ENFORCEMENT

17 ~~(a) Notwithstanding other provisions to the contrary, the department, the~~
18 ~~department of corrections, and any authorized local law enforcement agency~~
19 ~~are authorized to notify members of the public at their discretion about any sex~~
20 ~~offender whose information is required to be posted on the Internet in~~
21 ~~accordance with section 5411a of this title. Within three business days after a~~

1 sex offender registers or updates a registration, the department shall provide
2 the information in the registry about that offender to the following:

3 (1) The U.S. Attorney General, who shall include that information in the
4 National Sex Offender Registry or other appropriate databases.

5 (2) Appropriate law enforcement agencies, including probation
6 agencies, if appropriate, the United States Marshals Service, and each school
7 and public housing agency, in each area in which the individual resides, is an
8 employee or is a student.

9 (3) Sex offender registry in each jurisdiction where the sex offender
10 resides, is an employee, or is a student, and each jurisdiction from or to which
11 a change of residence, employment, or student status occurs.

12 (4) The Vermont department for children and families.

13 (5) Any organization, company, or individual who requests such
14 notification pursuant to rules established by the department.

15 ~~(b) The department, the department of corrections, and any authorized local~~
16 ~~law enforcement agency are authorized to notify members of the public at their~~
17 ~~discretion about a sex offender whose information is not required to be posted~~
18 ~~on the Internet in accordance with section 5411a of this title only under~~
19 ~~circumstances which constitute a compelling risk to public safety and only~~
20 ~~after consultation with the Vermont crime information center and the~~
21 ~~department of corrections~~ Notwithstanding other provisions to the contrary, the

1 department, the department of corrections, and any authorized local law
2 enforcement agency are authorized to notify members of the public at their
3 discretion about any sex offender who is registered or required to register
4 pursuant to this subchapter.

5 (c) Registry information shall not be released under subsection (b) of this
6 section unless it is released pursuant to written protocols governing the manner
7 and circumstances of the release developed by the department, the department
8 of corrections, or an authorized law enforcement agency. The protocols shall
9 include consultation between the department or agency releasing the
10 information and the department of corrections' staff member responsible for
11 supervising the offender.

12 (d) Active community notification regarding registered sex offenders who
13 may pose a danger to members of the community is an important public safety
14 tool which the general assembly intends for authorized agencies to use at their
15 discretion in accordance with this subchapter.

16 Sec. 17. 13 V.S.A. § 5411d is amended to read:

17 § 5411d. DESIGNATION OF NONCOMPLIANT HIGH-RISK SEX
18 OFFENDER

19 (a) Prior to releasing a person from total confinement, the department of
20 corrections shall designate the person as a noncompliant high-risk sex offender
21 if the person meets all of the following criteria:

1 (1) Is incarcerated on or after the effective date of this act for lewd and
2 lascivious conduct with a child as defined in section 2602 of this title, sexual
3 assault as defined in section 3252 of this title, aggravated sexual assault as
4 defined in section 3253 of this title, or any attempt to commit a crime listed
5 herein, or a comparable offense in another jurisdiction of the United States.

6 (2) Is not subject to indeterminate life sentences under section 3271 of
7 this title.

8 (3) Is designated as a high-risk sex offender pursuant to section 5411b
9 of this title.

10 (4) Is noncompliant with sex offender treatment as defined by
11 department of corrections' directives.

12 (b) Noncompliant high-risk sex offenders shall report to the department as
13 follows:

14 (1) In person, within 15 days from the date of release from department
15 of corrections' supervision, and within every 30 days thereafter.

16 (2) Prior to any change of address. However, if the change of address is
17 unanticipated, the offender shall report within one day of the change of
18 address.

19 (3) Prior to enrollment in or separation from any postsecondary
20 educational institution. However, if the change in school status is
21 unanticipated, the offender shall report within one day of the change.

1 (4) Within one day of any change in a place of employment.

2 (c) ~~In addition to the registry information required in section 5403 of this~~
3 ~~title, a noncompliant high risk sex offender shall provide the department with~~
4 ~~the make, model, color, registration, and license plate number of any vehicle~~
5 ~~the person operates prior to operation. An offender found in operation of a~~
6 ~~vehicle not on the list provided to the department shall be considered to be in~~
7 ~~violation of this subsection~~ The department shall conduct periodic
8 unannounced registry compliance checks on high-risk sex offenders to verify
9 the accuracy of registry information. A noncompliant high-risk sex offender
10 shall grant the department access to his or her residence, place of employment,
11 all electronic communication devices which are owned or used by the offender
12 or which the offender intends to use and which have the ability to send or
13 receive text, SMS (short message service) messages and electronic mail, or
14 have the ability to browse the Internet as set out in subdivision 5403(a)(3)(xii)
15 of this title. The department may enter into an agreement with a local law
16 enforcement agency to perform duties under this subsection and under
17 subdivision (b)(1) of this section, but shall maintain responsibility for
18 compliance with this subsection.

19 (d) ~~The department shall arrange for the noncompliant high-risk sex~~
20 ~~offender to have his or her digital photograph updated annually for purposes of~~
21 ~~the electronic registry as provided in section 5411a of this title. An offender~~

1 who is requested by the department to report to the department or a local law
2 enforcement agency for the purpose of being photographed for the internet
3 registry shall comply with the request within 30 days.

4 ~~(e) The department shall conduct periodic unannounced registry~~
5 ~~compliance checks on noncompliant high risk sex offenders to verify the~~
6 ~~accuracy of registry information. The department may enter into an agreement~~
7 ~~with a local law enforcement agency to perform duties under this subsection~~
8 ~~and under subdivision (b)(1) of this section, but shall maintain responsibility~~
9 ~~for compliance with this subsection.~~

10 ~~(f)(1)~~ A noncompliant high-risk sex offender may petition the district court
11 to be relieved from the heightened registry requirements in this section once
12 every five years from the date of designation. The offender shall have the
13 burden of proving by a preponderance of the evidence that he or she:

14 (A) no longer qualifies as a high-risk offender as defined in section
15 5401 of this title and rules adopted by the department of corrections in
16 accordance with section 5411b of this title; and

17 (B) has complied with and completed sex offender treatment as
18 provided by department of corrections' directives.

19 (2) The Vermont Rules of Civil Procedure shall apply to these
20 proceedings.

1 (3) If the court finds that the offender is not high-risk and has
2 successfully completed treatment, the court shall order that the offender is no
3 longer considered a noncompliant high-risk offender and is subsequently
4 relieved from the heightened registry requirements of this section; however,
5 the offender shall still continue to comply with sex offender registry and other
6 requirements as provided elsewhere in this subchapter.

7 ~~(g)(1)(e)~~ A noncompliant high-risk sex offender who knowingly fails to
8 comply with any of the registry requirements under this section shall be
9 imprisoned for not less than five years and a maximum term of life and, in
10 addition, may be fined not more than \$50,000.00. A sentence may be
11 suspended in whole or in part, or the person may be eligible for parole or
12 release on conditional reentry or furlough, provided the person is subject to
13 intensive supervision by the department of corrections.

14 (2) In a criminal proceeding for violating any of the registry
15 requirements under this section, a defendant shall be prohibited from
16 challenging his or her status as a noncompliant high-risk sex offender.

17 ~~(h)(f)~~ A noncompliant high-risk sex offender convicted of violating this
18 section shall be sentenced under section 3271 of this title.

1 Sec. 18. 13 V.S.A. § 5411e is added to read:

2 § 5411e. AUTOMATED NOTIFICATION SYSTEM

3 The department may adopt an automated notification system which will
4 provide an electronic mail notice when a sex offender commences residing,
5 being employed, or attending school within a specific zip code or geographic
6 radius requested by a requestor. The requestor shall, at the time of the request,
7 provide any information required by the department, including the requestor's
8 name, electronic mail address, and physical address.

9 Sec. 19. 13 V.S.A. § 5412 is amended to read:

10 § 5412. IMMUNITY

11 The department, the department of corrections, any authorized local law
12 enforcement agency, and their employees shall be immune from liability in
13 carrying out the provisions under this subchapter except in instances of gross
14 negligence or willful misconduct, provided that the agencies complied with the
15 rules adopted pursuant to this subchapter. Nothing in this chapter shall create
16 or authorize a private cause of action of any kind against any state employee,
17 agency, department, or entity. Nothing in this chapter constitutes a waiver of
18 sovereign immunity.

1 Sec. 20. 13 V.S.A. § 5413 is amended to read:

2 § 5413. ~~EXPUNGEMENT~~ SEALING OF RECORDS

3 A person whose conviction of a sex offense is reversed and dismissed shall
4 not be required to register for that conviction under the provisions of this
5 subchapter and any information about that conviction contained in the registry
6 shall be removed and ~~destroyed~~ sealed. ~~If any information about that~~
7 ~~conviction was provided to any person or agency under subsection 5402(b) of~~
8 ~~this subchapter, that person or agency shall be notified that the conviction was~~
9 ~~reversed and shall be required to remove and destroy the information~~ The sex
10 offender shall bear the burden of demonstrating to the department that the
11 conviction has been reversed and dismissed. If the person whose conviction is
12 reversed and dismissed has more than one entry in the registry, only the entry
13 related to the dismissed case shall be removed and ~~destroyed~~ sealed.