

1 TO THE HONORABLE SENATE:

2 The Committee on Health & Welfare to which was referred House Bill No.
3 622 entitled “An act relating to obligations for reporting child abuse and
4 neglect and cooperating in investigations of child abuse and neglect”
5 respectfully reports that it has considered the same and recommends that the
6 Senate propose to the House that the bill be amended by striking out all after
7 the enacting clause and inserting in lieu thereof the following:

8 Sec. 1. 33 V.S.A. § 4913 is amended to read:

9 § 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL
10 ACTION

11 * * *

12 (c) Any mandated reporter who reasonably suspects abuse or neglect of a
13 child shall report in accordance with the provisions of section 4914 of this title
14 within 24 hours of the time information regarding the suspected abuse or
15 neglect was first received or observed. A mandated reporter who reasonably
16 suspects abuse or neglect of a child, and who has written confirmation that the
17 same incident of suspected abuse or neglect was already reported, is not
18 required to report that same incident of suspected abuse or neglect if the
19 mandated reporter is reasonably certain that there is no additional information
20 to report.

21 * * *

1 (h)(1) A person who violates subsection ~~(a)~~(c) of this section shall be fined
2 not more than \$500.00.

3 (2) A person who violates subsection ~~(a)~~(c) of this section with the
4 intent to conceal abuse or neglect of a child shall be imprisoned not more than
5 six months or fined not more than \$1,000.00, or both.

6 (3) This section shall not be construed to prohibit a prosecution under
7 any other provision of law.

8 (4) It shall be an affirmative defense to a charge under subsection (c) of
9 this section that the mandated reporter did not report in accordance with
10 subsection (c) because the person had written confirmation that the same
11 incident of suspected abuse or neglect was already reported and the mandated
12 reporter was reasonably certain that he or she had no additional information to
13 report. The burden shall be on the defendant to prove the affirmative defense
14 by a preponderance of the evidence. The affirmative defense shall not apply to
15 a person who violates subsection (c) of this section with the intent to conceal
16 abuse or neglect of a child.

17 (5) Prior to charging a mandated reporter under subsection (c) of this
18 section, the prosecutor shall make a reasonable inquiry into whether the
19 mandated reporter had written confirmation that the same incident of suspected
20 abuse or neglect was already reported and whether the mandated reporter was
21 reasonably certain that he or she had no additional information to report.

1 (i) Except as provided in subsection ~~(h)~~(j) of this section, a person may not
2 refuse to make a report required by this section on the grounds that making the
3 report would violate a privilege or disclose a confidential communication.

4 (j) A member of the clergy shall not be required to make a report under this
5 section if the report would be based upon information received in a
6 communication which is:

7 (1) made to a member of the clergy acting in his or her capacity as
8 spiritual advisor;

9 (2) intended by the parties to be confidential at the time the
10 communication is made;

11 (3) intended by the communicant to be an act of contrition or a matter of
12 conscience; and

13 (4) required to be confidential by religious law, doctrine, or tenet.

14 (k) When a member of the clergy receives information about abuse or
15 neglect of a child in a manner other than as described in subsection ~~(h)~~(j) of
16 this section, he or she is required to report on the basis of that information even
17 though he or she may have also received a report of abuse or neglect about the
18 same person or incident in the manner described in subsection ~~(h)~~(j) of this
19 section.

20 Sec. 2. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT

21 COMMITTEE; 2016 INTERIM RESPONSIBILITIES; PRIVILEGED

1 COMMUNICATIONS

2 During the 2016 legislative interim, the Joint Legislative Child Protection
3 Oversight Committee shall:

4 (1) review issues related to patient privilege, confidentiality of patient
5 records and information, and the statutes and rules governing professional
6 conduct; and

7 (2) analyze the extent to which those professional obligations identified
8 in subdivision (1) interfere with the ability of certain professional mandated
9 reporters to cooperate with the Department for Children and Families, law
10 enforcement, and prosecutors during an ongoing child protection assessment,
11 investigation, or proceeding.

12 Sec. 3. EFFECTIVE DATE

13 This act shall take effect on passage.

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20 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE