

No. 5. (Special Session) An act relating to sexual exploitation of students.

(S.3)

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

Sec. 1. 13 V.S.A. § 1386 is added to read:

§ 1386. EMPLOYMENT AGREEMENTS

In accordance with 21 V.S.A. § 306, it is the policy of the State of Vermont that no confidential employment separation agreement shall inhibit the disclosure to prospective employers and responsible licensing entities of factual information about a prospective employee's background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a vulnerable adult or minor.

Sec. 2. 16 V.S.A. § 253 is amended to read:

§ 253. CONFIDENTIALITY OF RECORDS

(a) Criminal records and criminal record information received under this subchapter are designated confidential unless, under State or federal law or regulation, the record or information may be disclosed to specifically designated persons.

(b) The Secretary, a superintendent, or a headmaster may disclose criminal records and criminal record information received under this subchapter to a qualified entity upon request, provided that the qualified entity has signed a user agreement and received authorization from the subject of the record request. As used in this section, "qualified entity" means an individual,

organization, or governmental body doing business in Vermont that has one or more individuals performing services for it within the State and that provides care or services to children, persons who are elders, or persons with disabilities as defined in 42 U.S.C. § 5119c.

(c) In accordance with 21 V.S.A. § 306, a board member, superintendent, or headmaster shall not enter into on behalf of a supervisory union, school district, or recognized or approved independent school a confidential employment separation agreement that inhibits the disclosure to prospective employers and responsible licensing entities of factual information about a prospective employee's background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a minor. Notwithstanding any provision of law to the contrary under 33 V.S.A. chapter 49, a board member, superintendent, or headmaster and employees of a supervisory union, school district, or recognized or approved independent school shall provide factually correct information concerning a former employee's employment record with the supervisory union, school district, or recognized or approved independent school to a prospective employer of that individual if requested by the prospective employer. Nothing in this subsection shall permit the disclosure of information that is prohibited from disclosure by subsection (b) of this section. Notwithstanding any provision of law to the contrary, a person shall not be subject to civil or criminal liability for disclosing information that is required

by this section to be disclosed if the person was acting in good faith. This immunity from liability shall not apply when the information supplied by a person is knowingly false or rendered with a malicious purpose.

Sec. 3. COMMITTEE FOR PROTECTING STUDENTS FROM SEXUAL
EXPLOITATION

(a) Creation. There is created the Committee for Protecting Students from Sexual Exploitation.

(b) Membership. The Committee shall be composed of the following 12 members:

(1) the Attorney General or designee;

(2) the Secretary of Education or designee;

(3) the Executive Director of the Vermont School Boards Association or designee;

(4) the Executive Director of the Vermont Independent Schools Association or designee;

(5) the Executive Director of Vermont-National Educators Association or designee;

(6) the Executive Director of Child Abuse Vermont or designee;

(7) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(8) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;

(9) the Defender General or designee;

(10) the Commissioner for Children and Families or designee;

(11) the Executive Director of the Vermont Superintendents Association
or designee; and

(12) a member appointed by the Northwest Unit of the Special
Investigation Units with experience in investigating grooming behaviors.

(c) Powers and duties. The Committee, in consultation with school
personnel, shall recommend whether behaviors by an employee of, or
contractor for, a public school or recognized or approved independent school
designed to establish a romantic or sexual relationship with a child or a student,
so-called “grooming behaviors,” should be unlawful under Vermont law, and,
if the Committee recommends that grooming behaviors should be unlawful,
shall include in its recommendation:

(1) how grooming behaviors should be defined;

(2) whether all students or children in a school environment should be
covered;

(3) whether the behavior should result in a misdemeanor or a felony, and
the related punishment; and

(4) the statute of limitations for bringing a related action.

(d) Assistance. The Committee shall have the administrative, technical,
and legal assistance of the Office of the Attorney General.

(e) Report. On or before October 15, 2019, the Committee shall submit a written report to the House and Senate Committees on Education and on Judiciary with its findings and any recommendations.

(f) Meetings.

(1) The Office of the Attorney General or designee shall call the first meeting of the Committee to occur on or before July 15, 2018.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on October 16, 2019.

Sec. 4. 21 V.S.A. § 306 is amended to read:

§ 306. PUBLIC POLICY OF THE STATE OF VERMONT; EMPLOYMENT
SEPARATION AGREEMENTS

In support of the State's fundamental interest in protecting the safety of minors and vulnerable adults, as defined in 33 V.S.A. § 6902, it is the policy of the State of Vermont that no confidential employment separation agreement shall inhibit the disclosure to prospective employers and responsible licensing entities of factual information about a prospective employee's background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a minor or vulnerable adult.

Any provision in an agreement entered into on or after the effective date of this section that attempts to do so is void and unenforceable.

Sec. 5. MODEL POLICY ON ELECTRONIC COMMUNICATIONS

On or before July 1, 2019, the Agency of Education, in collaboration with the Vermont School Boards' Association and the Council of Independent Schools, shall develop a model policy on electronic communications between school employees and students designed to prevent exploitation of children. This policy shall be adopted by public schools and recognized and approved independent schools, as defined in 16 V.S.A. § 11, for the 2019–2020 school year and shall be maintained for future school years.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: June 19, 2018