

1 SPECIAL SESSION

2 S.3

3 Introduced by Committee on Rules

4 Date:

5 Subject: Education; protecting students; sexual exploitation

6 Statement of purpose of bill as introduced: This bill proposes to require that a
7 representative of a school provide factually correct information concerning a
8 former employee's employment record to a prospective employer if requested,
9 to create the Committee for Protecting Students from Sexual Exploitation to
10 recommend whether behaviors designed to establish a romantic or sexual
11 relationship with a child or a student should be unlawful under Vermont law,
12 and to require the Agency of Education to develop a model policy on
13 electronic communications between school employees and students designed
14 to prevent exploitation of children.

15 An act relating to sexual exploitation of students

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

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

18 § 1386. EMPLOYMENT AGREEMENTS

19 In accordance with 21 V.S.A. § 306, it is the policy of the State of Vermont

1 that no confidential employment separation agreement shall inhibit the
2 disclosure to prospective employers and responsible licensing entities of
3 factual information about a prospective employee's background that would
4 lead a reasonable person to conclude that the prospective employee has
5 engaged in conduct jeopardizing the safety of a vulnerable adult or minor.

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

7 § 253. CONFIDENTIALITY OF RECORDS

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

12 (b) The Secretary, a superintendent, or a headmaster may disclose criminal
13 records and criminal record information received under this subchapter to a
14 qualified entity upon request, provided that the qualified entity has signed a
15 user agreement and received authorization from the subject of the record
16 request. As used in this section, "qualified entity" means an individual,
17 organization, or governmental body doing business in Vermont that has one or
18 more individuals performing services for it within the State and that provides
19 care or services to children, persons who are elders, or persons with disabilities
20 as defined in 42 U.S.C. § 5119c.

21 (c) In accordance with 21 V.S.A. § 306, a board member, superintendent,

1 or headmaster shall not enter into on behalf of a supervisory union, school
2 district, or recognized or approved independent school a confidential
3 employment separation agreement that inhibits the disclosure to prospective
4 employers and responsible licensing entities of factual information about a
5 prospective employee's background that would lead a reasonable person to
6 conclude that the prospective employee has engaged in conduct jeopardizing
7 the safety of a minor. Notwithstanding any provision of law to the contrary
8 under 33 V.S.A. chapter 49, a board member, superintendent, or headmaster
9 and employees of a supervisory union, school district, or recognized or
10 approved independent school shall provide factually correct information
11 concerning a former employee's employment record with the supervisory
12 union, school district, or recognized or approved independent school to a
13 prospective employer of that individual if requested by the prospective
14 employer. Nothing in this subsection shall permit the disclosure of
15 information that is prohibited from disclosure by subsection (b) of this section.
16 Notwithstanding any provision of law to the contrary, a person shall not be
17 subject to civil or criminal liability for disclosing information that is required
18 by this section to be disclosed if the person was acting in good faith. This
19 immunity from liability shall not apply when the information supplied by a
20 person is knowingly false or rendered with a malicious purpose.

21 Sec. 3. COMMITTEE FOR PROTECTING STUDENTS FROM SEXUAL

1 EXPLOITATION

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

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

6 (1) the Attorney General or designee;

7 (2) the Secretary of Education or designee;

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

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

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

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

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

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

19 (9) the Defender General or designee;

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

21 (11) the Executive Director of the Vermont Superintendents Association

1 or designee; and

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

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

11 (1) how grooming behaviors should be defined;

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

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

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

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

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

1 (f) Meetings.

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

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

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

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

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

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

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

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

20 Sec. 5. MODEL POLICY ON ELECTRONIC COMMUNICATIONS

21 On or before July 1, 2019, the Agency of Education, in collaboration with

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

7 Sec. 6. EFFECTIVE DATE

8 This act shall take effect on passage.