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H.25

Introduced by Representatives Grad of Moretown, Conquest of Newbury,

LaLonde of South Burlington, and Morris of Bennington

Referred to Committee on

Date:

Subject: Crimes; sexual assault; sexual assault survivors' rights

Statement of purpose of bill as introduced: This bill proposes to establish the rights of a sexual assault survivor relating to the collection and retention of evidence and the provision of information regarding the collection of evidence and options and services available to the survivor.

An act relating to ~~sexual assault survivors' rights~~ *domestic terrorism*

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

~~Sec. 1. 13 V.S.A. § 3281 is added to read:~~

§ 3281. SEXUAL ASSAULT SURVIVORS' RIGHTS

A sexual assault survivor shall have the following rights:

(1) to receive a medical forensic examination, including any related toxicology testing, at no cost to the survivor;

(2) to have a sexual assault evidence collection kit or its probative contents delivered to a forensics laboratory within 72 hours of collection,

1 (3) to have a sexual assault evidence collection kit or its probative
2 contents preserved, without charge, for the duration of the maximum
3 applicable statute of limitations;

4 (4) to be informed of all results of a sexual assault evidence collection
5 kit, including a DNA profile match on a reported or unreported kit, toxicology
6 report, or other information collected as part of a medical forensic
7 examination, if such disclosure would not impede or compromise an ongoing
8 investigation;

9 (5) to be informed in writing of policies governing the collection and
10 preservation of a sexual assault evidence collection kit;

11 (6) upon written request, to receive written notification from the
12 appropriate official with custody not later than 60 days before the date of the
13 intended destruction or disposal and, upon written request, to be granted
14 further preservation of the kit or its probative contents;

15 (7) to be notified by either law enforcement, a sexual assault advocate, a
16 prosecutor's office, or Sexual Assault Nurse Examiner of the following:

17 (A) the right to receive a medical forensic examination, including
18 any related toxicology testing, at no cost;

19 (B) the right to have a sexual assault medical forensic examination
20 regardless of whether the survivor reports to or cooperates with law
21 enforcement,

- 1 ~~(C) the availability of a sexual assault advocate;~~
- 2 ~~(D) the availability of protective orders and policies related to the~~
3 ~~enforcement of protection orders;~~
- 4 ~~(E) policies regarding the storage, preservation, and disposal of~~
5 ~~sexual assault evidence collection kits;~~
- 6 ~~(F) the process, if any, to request preservation of sexual assault~~
7 ~~evidence collection kits or the probative evidence from such kits; and~~
- 8 ~~(G) the availability of victim compensation and restitution.~~

9 Sec. 2. EFFECTIVE DATE

10 ~~This act shall take effect on July 1, 2017.~~

~~Sec. 1. 13 VS 4, § 3281 is added to read:~~

~~§ 3281. *SEXUAL ASSAULT SURVIVORS' RIGHTS*~~

~~(a) *Short Title.* This section may be cited as the “Bill of Rights for Sexual Assault Survivors.”~~

~~(b) *Definition.* As used in this section, “sexual assault survivor” means a person who is a victim of an alleged sexual offense.~~

~~(c) *Survivors’ Rights.* When a sexual assault survivor makes a verbal or written report to a law enforcement officer, ~~medical provider~~ emergency department, or sexual assault nurse examiner, or victim’s advocate of an alleged sexual offense, the recipient of the report shall provide written notification to the survivor that he or she has the following rights.~~

~~(1) The right to receive a medical forensic examination and any related toxicology testing at no cost to the survivor in accordance with 32 V.S.A. § 1407, irrespective of whether the survivor reports to or cooperates with law enforcement. If the survivor opts to have a medical forensic examination, he or she shall have the following additional rights:~~

~~(A) The right to have the medical forensic examination kit or its probative contents delivered to a forensics laboratory within 72 hours of collection.~~

~~(B) The right to have the sexual assault evidence collection kit or its probative contents preserved without charge for the duration of the maximum applicable statute of limitations.~~

~~(C) The right to be informed in writing of all policies governing the collection, storage, preservation, and disposal of a sexual assault evidence collection kit.~~

~~(D) The right to be informed of a DNA profile match on a reported or confidential kit, on a toxicology report, or on a medical record documenting a medical forensic examination, if the disclosure would not impede or compromise an ongoing investigation.~~

~~(E) Upon written request from the survivor, the right to:~~

~~(i) receive written notification from the appropriate official with custody not later than 60 days before the date of the kit's intended destruction~~

or disposal; and

(ii) be granted further preservation of the kit or its probative content;

(2) The right to consult with a sexual assault advocate.

(3) The right to information concerning the availability of protective orders and policies related to the enforcement of protection orders.

(4) The right to information about the availability of, and eligibility for, victim compensation and restitution.

(5) The right to information about confidentiality.

(d) Notification protocols. The Vermont Network Against Domestic and Sexual Violence and the Sexual Assault Nurse Examiner Program, in consultation with other parties referred to in this section, shall develop protocols and written materials to assist all responsible entities in providing notification to victims.

Sec. 2. 32 V.S.A. § 1407 is amended to read:

§ 1407. COSTS TO BE BORNE BY THE STATE

(a) As described in this section, the State shall cover the costs of certain medical care for victims of crime committed in this State without health insurance or whose health insurance does not pay for all of the care provided, or who request coverage because of concern that his or her safety or confidentiality would be adversely affected if the insurer were billed.

~~***~~

~~Sec. 3. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2017.~~

Sec. 1. 13 V.S.A. § 4003 is amended to read:

§ 4003. CARRYING DANGEROUS WEAPONS

~~A person who carries a dangerous or deadly weapon, openly or concealed, with the intent or avowed purpose of injuring a fellow man, or who carries a dangerous or deadly weapon within any state institution or upon the grounds or lands owned or leased for the use of such institution, without the approval of the warden or superintendent of the institution, to injure another shall be imprisoned for not more than two years or fined not more than \$200.00 \$2,000.00, or both. It shall be a felony punishable by not more than 10 years of imprisonment or a fine of \$25,000.00, or both, if the person intends to injure multiple persons.~~

Sec. 2. 13 V.S.A. § 1703 is added to read:

§ 1703. DOMESTIC TERRORISM

(a) As used in this section:

(1) "Domestic terrorism" means engaging in or taking a substantial step to commit a violation of the criminal laws of this State with the intent to:

(A) cause death or serious bodily injury to multiple persons; or

(B) threaten any civilian population with mass destruction, mass

killings, or kidnapping.

(2) "Serious bodily injury" shall have the same meaning as in section 1021 of this title.

(3) "Substantial step" shall mean conduct that is strongly corroborative of the actor's intent to complete the commission of the offense.

(b) A person who willfully engages in an act of domestic terrorism shall be imprisoned for not more than 20 years or fined not more than \$50,000.00, or both.

(c) It shall be an affirmative defense to a charge under this section that the actor abandoned his or her effort to commit the crime or otherwise prevented its commission under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.

Sec. 3. 13 V.S.A. § 4004 is amended to read:

§ 4004. POSSESSION OF DANGEROUS OR DEADLY WEAPON IN A
SCHOOL BUS OR SCHOOL BUILDING OR ON SCHOOL
PROPERTY

(a) No person shall knowingly possess a firearm or a dangerous or deadly weapon while within a school building or on a school bus. A person who violates this section shall, for the first offense, be imprisoned for not more than one year or fined not more than \$1,000.00, or both, and for a second or subsequent offense shall be imprisoned for not more than three years or fined

not more than \$5,000.00, or both.

(b) No person shall knowingly possess a firearm or a dangerous or deadly weapon on any school property with the intent to injure another person. A person who violates this section shall, for the first offense, be imprisoned for not more than ~~two~~ three years or fined not more than \$1,000.00, or both, and for a second or subsequent offense shall be imprisoned for not more than ~~three~~ five years or fined not more than \$5,000.00, or both.

(c) This section shall not apply to:

(1) A law enforcement officer while engaged in law enforcement duties.

(2) Possession and use of firearms or dangerous or deadly weapons if the board of school directors, or the superintendent or principal if delegated authority to do so by the board, authorizes possession or use for specific occasions or for instructional or other specific purposes.

(d) As used in this section:

(1) "School property" means any property owned by a school, including motor vehicles.

(2) "Owned by the school" means owned, leased, controlled, or subcontracted by the school.

(3) "Dangerous or deadly weapon" ~~has~~ shall have the same meaning ~~defined as~~ in section 4016 of this title.

(4) "Firearm" ~~has~~ shall have the same meaning ~~defined as~~ in section

4016 of this title.

*(5) "Law enforcement officer" ~~has~~ shall have the same meaning defined
as in section 4016 of this title.*

*(e) The provisions of this section shall not limit or restrict any prosecution
for any other offense, including simple assault or aggravated assault.*

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.