

1 S.87

2 Introduced by Committee on Judiciary

3 Date: February 16, 2017

4 Subject: Criminal procedures; sexual exploitation

5 Statement of purpose of bill as introduced: This bill proposes to extend the
6 statute of limitations for certain sex crimes; clarify that a superintendent or
7 headmaster is not permitted to enter into a confidential employment separation
8 agreement that inhibits the disclosure to prospective employers of factual
9 information about a prospective employee's background that would lead a
10 reasonable person to conclude that the prospective employee has engaged in
11 conduct jeopardizing the safety of a minor; and establishes the Committee for
12 Enhancing School Safety.

13 An act relating to sexual exploitation of students

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

15 Sec. 1. 13 V.S.A. § 4501 is amended to read:

16 § 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

17 (a) Prosecutions for aggravated sexual assault, aggravated sexual assault of
18 a child, sexual assault, human trafficking, aggravated human trafficking,
19 murder, arson causing death, and kidnapping may be commenced at any time

1 after the commission of the offense.

2 (b) Prosecutions for manslaughter, sexual assault, lewd and lascivious
3 conduct, ~~sexual exploitation of children under chapter 64 of this title~~, sexual
4 abuse of a vulnerable adult, grand larceny, robbery, burglary, embezzlement,
5 forgery, bribery offenses, false claims, fraud under 33 V.S.A. § 141(d), and
6 felony tax offenses shall be commenced within six years after the commission
7 of the offense, and not after.

8 (c) Prosecutions for any of the following offenses alleged to have been
9 committed against a child under 18 years of age shall be commenced within 40
10 years after the commission of the offense, and not after:

11 (1) ~~sexual assault~~ sexual exploitation of children under chapter 64 of
12 this title;

13 (2) lewd and lascivious conduct;

14 (3) sexual exploitation of a minor as defined in subsection 3258(c) of
15 this title;

16 (4) lewd or lascivious conduct with a child; and

17 (5) manslaughter.

18 (d) Prosecutions for arson shall be commenced within 11 years after the
19 commission of the offense, and not after.

20 (e) Prosecutions for other felonies and for misdemeanors shall be
21 commenced within three years after the commission of the offense, and not

1 after.

2 Sec. 2. 13 V.S.A. § 1386 is added to read:

3 § 1386. EMPLOYMENT AGREEMENTS

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

10 Sec. 3. 16 V.S.A. § 253 is amended to read:

11 § 253. CONFIDENTIALITY OF RECORDS

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

16 (b) The Secretary, a superintendent, or a headmaster may disclose criminal
17 records and criminal record information received under this subchapter to a
18 qualified entity upon request, provided that the qualified entity has signed a
19 user agreement and received authorization from the subject of the record
20 request. As used in this section, "qualified entity" means an individual,
21 organization, or governmental body doing business in Vermont that has one or

1 more individuals performing services for it within the State and that provides
2 care or services to children, persons who are elders, or persons with disabilities
3 as defined in 42 U.S.C. § 5119c.

4 (c) In accordance with 21 V.S.A. § 306, a superintendent or headmaster
5 shall not enter into on behalf of a supervisory union, school district, or
6 recognized or approved independent school a confidential employment
7 separation agreement that inhibits the disclosure to prospective employers of
8 factual information about a prospective employee's background that would
9 lead a reasonable person to conclude that the prospective employee has
10 engaged in conduct jeopardizing the safety of a minor. A superintendent or
11 headmaster and employees of a supervisory union, school district, or
12 recognized or approved independent school shall provide factually correct
13 information concerning a former employee's employment record with the
14 supervisory union, school district, or recognized or approved independent
15 school to a prospective employer of that individual if requested by the
16 prospective employer. Nothing in this subsection shall permit the disclosure of
17 information that is prohibited from disclosure by subsection (b) of this section.
18 A person shall not be subject to civil or criminal liability for disclosing
19 information that is required by this section to be disclosed if the person was
20 acting in good faith and reasonably believed at the time of disclosure that the
21 information disclosed was factually correct.

1 Sec. 4. COMMITTEE FOR ENHANCING SCHOOL SAFETY

2 (a) Creation. There is created the Committee for Enhancing School Safety.

3 (b) Membership. The Committee shall be composed of the following ~~eight~~
4 ~~ten~~ members:

5 (1) the Secretary of Education or designee;

6 (2) the Executive Director of the Vermont School Boards Association or
7 designee;

8 (3) the Executive Director of the Vermont Independent Schools
9 Association or designee;

10 (4) the Executive Director of the Vermont National Educators

11 Association or designee;

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

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

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

~~(8) the Defender General or designee.~~

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

(8) the Defender General or designee;

(9) the Commissioner of the Department for Children and Families or
designee; and

(10) the Executive Director of the Vermont Superintendent's Association
or designee.

16 (c) Powers and duties. The Committee shall:

1 (1) develop a model policy for adoption by public schools and
2 recognized and approved independent schools, as defined in 16 V.S.A. § 11, on
3 electronic communications between school employees and students, designed
4 to prevent improper communications; and

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

11 (A) how grooming behaviors should be defined;

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

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

16 (D) 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 Agency of Education.

19 (e) Report. On or before October 15, 2018, 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 Secretary of Education shall call the first meeting of the
3 Committee to occur on or before July 15, 2017.

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 15, 2018.

Sec. 5. 16 V.S.A. § 914 is added to read:

§ 914. CHILD ABUSE AND NEGLECT HOTLINE

Each public school and each independent school shall post in English and Spanish the toll-free telephone number operated by the Department for Children and Families to receive reports of child abuse and neglect and directions for accessing the office of the Department for Children and Families and its website.

8 ~~Sec. 7. EFFECTIVE DATES~~

9 ~~This act shall take effect on July 1, 2017, except that Sec. 6 (Committee~~
10 ~~for Enhancing School Safety) and this section shall take effect on passage.~~

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except that Sec. 4 (Committee for Enhancing School Safety) and this section shall take effect on passage.