

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 603
3 entitled “An act relating to human trafficking” respectfully reports that it has
4 considered the same and recommends that the Senate propose to the House that
5 the bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 Sec. 1. 15 V.S.A. § 516 is amended to read:

8 § 516. FORCE OR FRAUD

9 A civil marriage may be annulled during the lifetime of the parties, or one
10 of them, on the ground that the consent of one of the parties was obtained by
11 force or fraud, or the threat of force, or other forms of coercion or deception on
12 the complaint of the party whose consent was so obtained or of the parent or
13 guardian of such party or of some relative interested to contest the validity of
14 the marriage. When such proceedings have been commenced and the party
15 whose consent was so obtained dies before final decree, a parent or relative
16 interested to contest the validity of the civil marriage may enter and prosecute
17 such complaint. ~~A civil marriage shall not be annulled on such ground if,~~
18 ~~before the commencement of the action, the parties voluntarily cohabited as~~
19 ~~husband and wife.~~

1 Sec. 2. 15 V.S.A. § 665 is amended to read:

2 § 665. RIGHTS AND RESPONSIBILITIES ORDER; BEST INTERESTS OF
3 THE CHILD

4 * * *

5 (f) The State has a compelling interest in not forcing a victim of sexual
6 assault or sexual exploitation to continue an ongoing relationship with the
7 perpetrator of the abuse. Such continued interaction can have traumatic
8 psychological effects on the victim, making recovery more difficult, and
9 negatively affect the victim’s ability to parent and to provide for the best
10 interests of the child. Additionally, the State recognizes that a perpetrator may
11 use the threat of pursuing parental rights and responsibilities to coerce a victim
12 into not reporting or not assisting in the prosecution of the perpetrator for the
13 sexual assault or sexual exploitation, or to harass, intimidate, or manipulate the
14 victim.

15 (1) The court may enter an order awarding sole parental rights and
16 responsibilities to a parent and denying all parent-child contact with the other
17 parent if the court finds by clear and convincing evidence that the nonmoving
18 parent was convicted of sexually assaulting the moving parent and the child
19 was conceived as a result of the sexual assault, or that the nonmoving parent
20 was convicted of human trafficking pursuant to 13 V.S.A. § 2652, and the
21 moving parent was the trafficked victim. As used in this subdivision, sexual

1 assault shall include sexual assault as provided in 13 V.S.A. § 3252(a), (b), (d),
2 and (e), aggravated sexual assault as provided in 13 V.S.A. § 3253, aggravated
3 sexual assault of a child as provided in 13 V.S.A. § 3253a, lewd and lascivious
4 conduct with a child as provided in 13 V.S.A. § 2602, and similar offenses in
5 other jurisdictions.

6 (2) The court may enter an order awarding sole parental rights and
7 responsibilities to one parent and denying all parent-child contact between the
8 other parent and a child if the court finds by clear and convincing evidence that
9 the child was conceived as a result of the nonmoving parent sexually assaulting
10 or sexually exploiting the moving parent, or that the moving parent was
11 trafficked by the nonmoving parent pursuant to 13 V.S.A. § 2652 and the court
12 finds by a preponderance of the evidence that such an order is in the best
13 ~~interest~~ interests of the child. A conviction is not required under this
14 subdivision, and the court may consider other evidence of sexual assault or
15 sexual exploitation in making its determination. For purposes of this
16 subdivision ~~(f)~~(2):

17 (A) sexual assault shall include sexual assault as provided in
18 13 V.S.A. § 3252, aggravated sexual assault as provided in 13 V.S.A. § 3253,
19 aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a, lewd
20 and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and
21 similar offenses in other jurisdictions; and

1 (1) In the case of a minor under ~~the age of~~ six months of age at the time
2 the petition is filed, the respondent did not exercise parental responsibility once
3 he or she knew or should have known of the minor’s birth or expected birth. In
4 making a determination under this subdivision, the court shall consider all
5 relevant factors, which may include the respondent’s failure to:

6 (A) pay reasonable prenatal, natal, and postnatal expenses in
7 accordance with his or her financial means;

8 (B) make reasonable and consistent payments, in accordance with his
9 or her financial means, for the support of the minor;

10 (C) regularly communicate or visit with the minor; or

11 (D) manifest an ability and willingness to assume legal and physical
12 custody of the minor.

13 (2) In the case of a minor over ~~the age of~~ six months of age at the time
14 the petition is filed, the respondent did not exercise parental responsibility for a
15 period of at least six months immediately preceding the filing of the petition.

16 In making a determination under this subdivision, the court shall consider all
17 relevant factors, which may include the respondent’s failure to:

18 (A) make reasonable and consistent payments, in accordance with his
19 or her financial means, for the support of the minor, although legally obligated
20 to do so;

21 (B) regularly communicate or visit with the minor; or

1 (C) during any time the minor was not in the physical custody of the
2 other parent, ~~to~~ manifest an ability and willingness to assume legal and
3 physical custody of the minor.

4 (3) The respondent has been convicted of a crime of violence or has
5 been found by a court of competent jurisdiction to have committed an act of
6 violence ~~which~~ that violated a restraining or protective order, and the facts of
7 the crime or violation indicate that the respondent is unfit to maintain a
8 relationship of parent and child with the minor.

9 (4) The respondent has committed a sexual assault resulting in the
10 conception of **the** child.

11 (b) If the respondent has proved by a preponderance of the evidence that he
12 or she had good cause for not complying with subdivision (a)(1) or (2) of this
13 section or that, for compelling reasons, termination is not justified under
14 subdivision (a)(3) or (4) of this section, the court may not terminate the
15 respondent's parental rights to a minor except upon a finding by clear and
16 convincing evidence that any one of the following grounds exists and that
17 termination is in the best ~~interest~~ interests of the minor:

18 (1) Once the respondent no longer had good cause for not complying
19 with the requirements of ~~subdivisions~~ subdivision (a)(1) or (2) of this section,
20 he or she failed to assume parental responsibilities as promptly and fully as
21 circumstances permitted.

1 (2) The respondent, after being afforded a reasonable opportunity to do
2 so, would not have the ability and disposition to:

3 (A) provide the child with love, affection, and guidance;

4 (B) meet the child’s present and future physical and emotional
5 needs; or

6 (C) provide the child with adequate food, clothing, medical care,
7 other material needs, education, and a safe environment.

8 (3) At the time of the hearing, the respondent has a relationship with
9 another person who would significantly and adversely affect the child.

10 (4) Placing the minor in the respondent’s legal or physical custody
11 would pose a risk of substantial harm to the physical or psychological well-
12 being of the minor because the circumstances of the minor’s conception, or the
13 respondent’s behavior during the pregnancy or since the minor’s birth indicates
14 that he or she is unfit to maintain a relationship of parent and child with the
15 minor.

16 (c) At the time of the hearing under this section, the court shall consider the
17 best interests of the child in accordance with the following criteria:

18 (1) the likelihood that the respondent will be able to assume or resume
19 his or her parental duties within a reasonable period of time;

20 (2) the child’s adjustment to his or her home, school, and community;

1 (3) the interaction and interrelationship of the child with his or her
2 parents, siblings, and any other person who may significantly affect the ~~child's~~
3 best interests of the child; and

4 (4) whether the parent or alleged parent has played and continues to play
5 a constructive role, including personal contact and demonstrated love and
6 affection, in the child's welfare.

7 (d) If the respondent does not answer or appear or, in the case of an alleged
8 father, file a claim of paternity as provided in subdivision 3-503(b)(2) of this
9 title, or cannot be notified because the person's identity or whereabouts is
10 unknown, the court may order the termination of any parental relationship to
11 the minor.

12 Sec. 4. EFFECTIVE DATE

13 This act shall take effect on passage.

14

15 (Committee vote: _____)

16

17

Senator _____

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FOR THE COMMITTEE