

1 Introduced by Committee on Judiciary

2 Date:

3 Subject:

4 Statement of purpose of bill as introduced: This bill proposes to expand the
5 crime of sexual exploitation of minors to cover persons under 21 years of age
6 and a broader range of sexual conduct; to extend the statute of limitations for
7 certain sex crimes; clarify that a superintendent or headmaster is not permitted
8 to enter into a confidential employment separation agreement that inhibits the
9 disclosure to prospective employers of factual information about a prospective
10 employee's background that would lead a reasonable person to conclude that
11 the prospective employee has engaged in conduct jeopardizing the safety of a
12 minor; establishes the Committee for Enhancing School Safety.

13

14 An act relating to sexual exploitation of students

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

16 Sec. 1. 13 V.S.A. § 3258 is amended to read:

17 § 3258. SEXUAL EXPLOITATION OF A MINOR PERSON UNDER 21
18 YEARS OF AGE

19 (a) No person shall engage in ~~a sexual act~~ sexual conduct with a ~~minor~~
20 person under the age of 21 if:

1 (1) the actor is at least 48 months older than the ~~minor~~ person under the
2 age of 21; and

3 (2) the actor is in a position of power, authority, or supervision over the
4 ~~minor~~ person under the age of 21 by virtue of the actor's undertaking the
5 responsibility, professionally or voluntarily, to provide for the health or
6 welfare of ~~minors~~ persons under the age of 21, or guidance, leadership,
7 instruction, or organized recreational activities for ~~minors~~ persons under the
8 age of 21.

9 (b) A person who violates subsection (a) of this section shall be imprisoned
10 for not more than one year or fined not more than \$2,000.00, or both.

11 (c) A person who violates subsection (a) of this section and who abuses his
12 or her position of power, authority, or supervision over the minor in order to
13 engage in a sexual act shall be imprisoned for not more than five years or fined
14 not more than \$10,000.00, or both.

15 (d) As used in this section, "sexual conduct" shall have the same meaning
16 as in section 2821 of this title.

17 Sec. 2. 13 V.S.A. § 4501 is amended to read:

18 § 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

19 (a) Prosecutions for aggravated sexual assault, aggravated sexual assault of
20 a child, sexual assault, human trafficking, aggravated human trafficking,

1 murder, arson causing death, and kidnapping may be commenced at any time
2 after the commission of the offense.

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

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

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

14 (2) lewd and lascivious conduct;

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

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

18 (5) manslaughter.

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

1 (e) Prosecutions for other felonies and for misdemeanors shall be
2 commenced within three years after the commission of the offense, and not
3 after.

4 Sec. 3. 13 V.S.A. § V.S.A. § 1386 is added to read:

5 § 1386. EMPLOYMENT AGREEMENTS

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

12 Sec. 4. 16 V.S.A. § 253 is amended to read:

13 § 253. CONFIDENTIALITY OF RECORDS

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

18 (b) The Secretary, a superintendent, or a headmaster may disclose criminal
19 records and criminal record information received under this subchapter to a
20 qualified entity upon request, provided that the qualified entity has signed a
21 user agreement and received authorization from the subject of the record

1 request. As used in this section, “qualified entity” means an individual,
2 organization, or governmental body doing business in Vermont that has one or
3 more individuals performing services for it within the State and that provides
4 care or services to children, persons who are elders, or persons with disabilities
5 as defined in 42 U.S.C. § 5119c.

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

20 Sec. 4. COMMITTEE FOR ENHANCING SCHOOL SAFETY

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

1 (b) Membership. The Committee shall be composed of the following
2 six members:

3 (1) the Secretary of Education or designee;

4 (2) the Executive Director of the Vermont School Boards Association or
5 designee;

6 (3) the Executive Director of the Vermont Independent Schools
7 Association or designee;

8 (4) the Executive Director of the Vermont National Educators
9 Association or designee;

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

11 (6) the Executive Director of the Vermont Network Against Domestic
12 and Sexual Violence.

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

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

18 (2) recommend whether behaviors by an employee of, or contractor for,
19 a public school or recognized or approved independent school designed to
20 establish a romantic or sexual relationship with a child or a student, so called
21 “grooming behaviors,” should be unlawful under Vermont law, and, if the

1 Committee recommends that grooming behaviors should be unlawful, shall
2 include in its recommendation:

3 (A) how grooming behaviors should be defined;

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

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

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

9 (d) Assistance. The Committee shall have the administrative, technical,
10 and legal assistance of the Agency of Education.

11 (e) Report. On or before November 15, 2017, the Committee shall submit a
12 written report to the House and Senate Committees on Education and on
13 Judiciary with its findings and any recommendations.

14 (f) Meetings.

15 (1) The Secretary of Education shall call the first meeting of the
16 Committee to occur on or before August 1, 2017.

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

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

20 (4) The Committee shall cease to exist on January 15, 2018.

21 Sec. 5. EFFECTIVE DATE

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