

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 74
3 entitled “An act relating to nonconsensual sexual conduct” respectfully reports
4 that it has considered the same and recommends that the Senate propose to the
5 House that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

7 Sec. 1. 13 V.S.A. § 2601a is added to read:

8 § 2601a. LEWD CONDUCT

9 (a) No person shall engage in open and gross lewdness.

10 (b) A person who violates this section shall:

11 (1) be imprisoned for not more than one year or fined not more than
12 \$300.00, or both, for a first offense; and

13 (2) be imprisoned not more than two years or fined not more than
14 \$1,000.00, or both, for a second or subsequent offense.

15 Sec. 2. 13 V.S.A. § 3281 is added to read:

16 § 3281. SEXUAL ASSAULT SURVIVORS’ RIGHTS

17 (a) Short title. This section may be cited as the “Bill of Rights for Sexual
18 Assault Survivors.”

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

1 (c) Survivors' rights. When a sexual assault survivor makes a verbal or
2 written report to a law enforcement officer, emergency department, sexual
3 assault nurse examiner, or victim's advocate of an alleged sexual offense, the
4 recipient of the report shall provide written notification to the survivor that he
5 or she has the following rights:

6 (1) The right to receive a medical forensic examination and any related
7 toxicology testing at no cost to the survivor in accordance with 32 V.S.A.
8 § 1407, irrespective of whether the survivor reports to or cooperates with law
9 enforcement. If the survivor opts to have a medical forensic examination, he
10 or she shall have the following additional rights:

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

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

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

20 (D) The right to be informed of a DNA profile match on a reported or
21 confidential kit, on a toxicology report, or on a medical record documenting a

1 medical forensic examination, if the disclosure would not impede or
2 compromise an ongoing investigation.

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

4 (i) receive written notification from the appropriate official with
5 custody not later than 60 days before the date of the kit's intended destruction
6 or disposal; and

7 (ii) be granted further preservation of the kit or its probative
8 contents.

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

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

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

14 (5) The right to information about confidentiality.

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

1 Sec. 3. 13 V.S.A. § 4501 is amended to read:

2 § 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

3 (a) Prosecutions for aggravated sexual assault, aggravated sexual assault of
4 a child, sexual assault, human trafficking, aggravated human trafficking,
5 murder, arson causing death, and kidnapping may be commenced at any time
6 after the commission of the offense.

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

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

16 (1) ~~sexual assault~~ sexual exploitation of children under chapter 64 of this
17 title;

18 (2) lewd and lascivious conduct;

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

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

1 (5) manslaughter.

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

4 (e) Prosecutions for other felonies and for misdemeanors shall be
5 commenced within three years after the commission of the offense, and not
6 after.

7 Sec. 4. 15 V.S.A. § 1103 is amended to read:

8 § 1103. REQUESTS FOR RELIEF

9 * * *

10 (c)(1) The ~~Court~~ court shall make such orders as it deems necessary to
11 protect the plaintiff or the children, or both, if the ~~Court~~ court finds that the
12 defendant has abused the plaintiff, and:

13 (A) there is a danger of further abuse; or

14 (B) the defendant is currently incarcerated and has been convicted of
15 one of the following: murder, attempted murder, kidnapping, domestic assault,
16 aggravated domestic assault, sexual assault, aggravated sexual assault,
17 stalking, aggravated stalking, lewd or lascivious conduct with a child, use of a
18 child in a sexual performance, or consenting to a sexual performance.

19 (2) The court order may include the following:

20 (A) an order that the defendant refrain from abusing the plaintiff, or
21 his or her children, or both, and from interfering with their personal liberty,

1 including restrictions on the defendant’s ability to contact the plaintiff or the
2 children in ~~person, by phone, or by mail~~ any way, directly, indirectly, or
3 through a third party, including in writing or by telephone, e-mail, or other
4 electronic communication, and restrictions prohibiting the defendant from
5 coming within a fixed distance of the plaintiff, the children, the plaintiff’s
6 residence, or other designated locations where the plaintiff or children are
7 likely to spend time;

8 * * *

9 Sec. 5. 15 V.S.A. § 1104 is amended to read:

10 § 1104. EMERGENCY RELIEF

11 (a) In accordance with the Vermont Rules of Civil Procedure, temporary
12 orders under this chapter may be issued ex parte, without notice to the
13 defendant, upon motion and findings by the ~~Court~~ court that the defendant has
14 abused the plaintiff or his or her children, or both. The plaintiff shall submit an
15 affidavit in support of the order. A minor 16 years of age or older, or a minor
16 of any age who is in a dating relationship as defined in subdivision 1101(2) of
17 this chapter, may seek relief on his or her own behalf. Relief under this section
18 shall be limited as follows:

19 (1) Upon a finding that there is an immediate danger of further abuse, an
20 order may be granted requiring the defendant:

1 (A) to refrain from abusing the plaintiff or his or her children, or
2 both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing
3 any animal owned, possessed, leased, kept, or held as a pet by either party or a
4 minor child residing in the household;

5 (B) to refrain from interfering with the plaintiff's personal liberty, or
6 the personal liberty of the plaintiff's children, or both; ~~and~~

7 (C) to refrain from coming within a fixed distance of the plaintiff, the
8 plaintiff's children, the plaintiff's residence, or the plaintiff's place of
9 employment; and

10 (D) to refrain from contacting the plaintiff or his or her children, or
11 both, in any way, directly, indirectly, or through a third party, including in
12 writing or by telephone, e-mail, or other electronic communication.

13 * * *

14 Sec. 6. 32 V.S.A. § 1407 is amended to read:

15 § 1407. COSTS TO BE BORNE BY THE STATE

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

21 * * *

1 Sec. 7. EFFECTIVE DATE

2 This act shall take effect on July 1, 2017, except this section and Secs. 4

3 (Request for Relief) and 5 (Emergency Relief) shall take effect on passage.

4 and that after passage the title of the bill be amended to read: “An act relating
5 to domestic and sexual violence”

6

7

8

9 (Committee vote: _____)

10

11

Senator _____

12

FOR THE COMMITTEE