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S.79

Senator Sears moves that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND LEGISLATIVE INTENT

The General Assembly finds that:

(1) In Vermont, we celebrate the rich cultural heritage and diversity of our residents.

(2) All Vermont residents should be free from discrimination on the basis of their sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, immigration status, age, or disability.

(3) Vermont must uphold the protection of religious freedom enshrined in the U.S. Constitution and the Vermont Constitution for all its people, and the State has a moral obligation to protect its residents from religious persecution.

(4) Article 3 of Chapter I of the Vermont Constitution prohibits any power from assuming any authority that interferes with or controls, in any manner, the rights of conscience in the free exercise of religious worship.

(5) Article 7 of Chapter I of the Vermont Constitution, also known as the Common Benefits Clause, provides that State benefits and protections are “for the common benefit, protection, and security of the people, nation, or

1 community, and not for the particular emolument or advantage of any single
2 person, family, or set of persons, who are a part only of that community.”

3 (6) Vermont residents have a right to privacy with respect to religious
4 affiliation and an expectation that religious affiliation or identification shall not
5 affect their residency in the State.

6 (7) Vermont residents are afforded the benefits and protections of law
7 enforcement and public safety without regard to their sex, sexual orientation,
8 gender identity, marital status, race, color, religion, national origin,
9 immigration status, age, or disability. Consequently, they have a reasonable
10 expectation that government officials will not monitor them or otherwise single
11 them out merely on the basis of these characteristics. They likewise have a
12 reasonable expectation that State and local government officials will not
13 contribute to the creation or development of a registry based on the personally
14 identifying information as defined in this act. Indeed, Vermont residents have
15 expressed grave concerns that the federal government seeks to create or
16 develop such a registry, which would be contrary to Vermont and American
17 values. This act is intended to narrowly address those concerns without
18 impeding Vermont residents’ enjoyment of other legal rights and benefits.

19 (8) Vermont State and local law enforcement work tirelessly to protect
20 the rights and security of all Vermont residents afforded them under the
21 Vermont and U.S. Constitutions. Moreover, Vermont residents benefit from

1 and are safer through the cooperative and mutually beneficial interaction
2 between local, State, and federal law enforcement, including the U.S. Border
3 Patrol.

4 (9) Vermont residents are more likely to engage with law enforcement
5 and other officials by reporting emergencies, crimes, and acting as witnesses;
6 to participate in economic activity; and to be engaged in civic life if they can
7 be assured they will not be singled out on the basis of the personally
8 identifying information as defined in this act.

9 (10) This act is not intended to interfere with the enforcement of
10 Vermont’s public safety laws or efforts to prioritize immigration enforcement
11 concerning individuals who pose a threat to Vermont’s public safety.

12 (11) The State of Vermont therefore has a substantial, sovereign interest
13 in prohibiting State and local government officials from collecting or
14 disclosing certain information to federal authorities for the purposes of
15 registration of its residents based on the personally identifying information as
16 defined in this act. These prohibitions are not intended to interfere with
17 Vermont residents’ rights to free and equal access to government benefits and
18 protection or the collection or sharing of data necessary to provide such
19 benefits and protections.

1 Sec. 2. 20 V.S.A. chapter 207 is added to read:

2 CHAPTER 207. PROTECTION OF PERSONALLY IDENTIFYING
3 INFORMATION

4 § 4651. PROHIBITED DISCLOSURE OF PERSONALLY IDENTIFYING
5 INFORMATION

6 (a) As used in this section:

7 (1) “Personally identifying information” means information concerning
8 a person’s sex, sexual orientation, gender identity, marital status, race, color,
9 religion, national origin, immigration status, age, or disability.

10 (2) “Public agency” has the same meaning as in 1 V.S.A. § 317 and
11 shall include all officers, employees, agents, and independent contractors of the
12 public agency.

13 (b) A public agency shall not:

14 (1) collect information regarding the religious beliefs, practices, or
15 affiliation of any individual for the purpose of registration of individuals based
16 on his or her beliefs, practices, or affiliations;

17 (2) knowingly disclose personally identifying information to any federal
18 agency or official for the purpose of registration of an individual based on his
19 or her personally identifying information; or

20 (3) use public agency money, facilities, property, equipment, or
21 personnel to assist in creating or enforcing any federal government program for

1 the registration of an individual based on his or her personally identifying
2 information.

3 (c) Any section, term, or provision of an agreement in existence on the
4 effective date of this section that conflicts with subsection (b) of this section
5 shall be invalidated on that date to the extent of the conflict.

6 (d) Nothing in this section is intended to prohibit or impede any public
7 agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and
8 1644. To the extent any State or local law enforcement policy or practice
9 conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, said
10 policy or practice is, to the extent of such conflict, abolished.

11 (e) Nothing in this section is intended to prohibit or impede any public
12 agency from disclosing or exchanging aggregated information that cannot be
13 used to identify an individual with any other public agency or federal agency
14 or official.

15 § 4652. GOVERNOR AUTHORIZED TO ENTER INTO AGREEMENTS

16 PURSUANT TO 8 U.S.C. § 1357(g) AND 19 U.S.C. § 1401(i)

17 (a) Notwithstanding any other provision of law, only the Governor, in
18 consultation with the Attorney General, is authorized to enter into, modify, or
19 extend an agreement pursuant to 8 U.S.C. § 1357(g) or 19 U.S.C. § 1401(i).

20 (b) Notwithstanding subsection (a) of this section, a State, county, or
21 municipal law enforcement agency is authorized to enter into an agreement

1 pursuant to 8 U.S.C. § 1357(g) or 19 U.S.C. § 1401(i) when necessary to
2 address threats to the public safety or welfare of Vermont residents arising out
3 of a declaration of a State or national emergency.

4 Sec. 3. EFFECTIVE DATE

5 This act shall take effect on passage.