

1 S.79

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

4 Sec. 1. FINDINGS AND LEGISLATIVE INTENT

5 The General Assembly finds that:

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

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

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

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

18 (5) Article 7 of Chapter I of the Vermont Constitution, also known as
19 the Common Benefits Clause, provides that State benefits and protections are
20 “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 personal
14 characteristics as described herein. ~~identified in this section.~~ Indeed, Vermont
15 residents have expressed grave concerns that the federal government seeks to
16 create or develop such a registry, which would be contrary to Vermont and
17 American values. This act is intended to narrowly address those concerns
18 without impeding Vermont residents’ enjoyment of other legal rights and
19 benefits.

20 (8) Vermont State and local law enforcement work tirelessly to protect
21 the rights and security of all Vermonters afforded them under the Vermont and

1 U.S. Constitutions. Moreover, Vermont residents benefit from and are safer
2 through the cooperative and mutually beneficial interaction between local,
3 State, and federal law enforcement, including the U.S. Border 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 personal
8 characteristics described in this section.

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. Nor is
12 this act intended to interfere with mandatory reporting requirements pertaining
13 to firearms background checks, as described herein.

14 (11) The State of Vermont therefore has a substantial, sovereign interest
15 in prohibiting State and local government officials from collecting or
16 disseminating certain information to federal authorities for the purposes of
17 registration of its residents based on the personal characteristics described in
18 section. These prohibitions are not intended to interfere with Vermont
19 residents' rights to free and equal access to government benefits and protection
20 or the collection or sharing of data necessary to provide such benefits and
21 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 a
8 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 shall
11 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 such beliefs, practices, or affiliations;

17 (2) disclose personally identifying information to any federal agency or
18 official for the purpose of registration of individuals based on such personally
19 identifiable information; or

1 (3) use public agency money, facilities, property, equipment, or
2 personnel to assist in creating or enforcing any federal government program for
3 the registration of individuals based on personally identifiable information;

4 (c) Any agreements in existence on the effective date of this section that
5 conflict with subsection (b) of this section shall be invalidated on that date to
6 the extent of the conflict.

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

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

16 (f) Nothing in this section is intended to prohibit or impede a public agency
17 from complying with mandatory reporting requirements pertaining to firearms
18 possession or firearms background checks, including the requirements set forth
19 in Act 14 (S. 141) (2015).

20 § 4652. GOVERNOR AUTHORIZED TO ENTER INTO AGREEMENTS

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

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

4 (b) Notwithstanding subsection (a) of this section, a State, county, or
5 municipal law enforcement agency may enter into an agreement pursuant to
6 8 U.S.C. § 1357(g) or 19 U.S.C. § 1401(i) when:

7 (1) necessary to address threats to the public safety or welfare of Vermont
8 residents arising out of a declaration of a State or national emergency.

9 Sec. 3. EFFECTIVE DATE

10 This act shall take effect on passage.