

H.568

An act relating to human trafficking and prostitution

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

Sec. 1. FINDINGS AND INTENT

(a) The majority of Vermont’s laws on prostitution were adopted more than 100 years ago and have remained largely unchanged since that time.

(b) Under current Vermont law:

(1) The term “prostitution” includes “the offering or receiving of the body for sexual intercourse for hire and shall also be construed to include the offering or receiving of the body for indiscriminate sexual intercourse without hire.”

(2) “Slave traffic,” a section of law codified in 1910 pursuant to “An act to prevent what is commonly known as the ‘white slave’ traffic,” prohibits transportation of persons into and out of the State not only for the purpose of prostitution but also for “any immoral purpose.” Historically, these types of laws were used to prosecute men of color for having relationships with white women.

(3) A person who has a sexually transmitted infection is eligible for probation or parole “only on such terms and conditions as shall ensure medical treatment therefor and prevent the spread of such disease.”

(c) In 2011, Vermont adopted comprehensive laws to address the issue of human trafficking. These laws prohibit coerced commercial sex and

commercial sex involving minors and penalties range from a maximum of five years imprisonment (facilitation of human trafficking) to a mandatory 20 years to life imprisonment (aggravated trafficking). Vermont’s prostitution laws were never updated to reflect the adoption of the human trafficking laws.

(d) A working group, composed of the Attorney General’s Office, the Vermont Center for Crime Victim Services, and the Vermont Network Against Domestic and Sexual Violence, was created by 2019 Acts and Resolves No. 32 for the purpose of examining a number of issues related to prostitution and human trafficking. This working group recommended that no changes be made at this time to the laws on human trafficking, but that “the legislature create a study committee to examine laws related to sex work and prostitution” that includes a wide array of stakeholders. Based on this recommendation, it is the intent of the General Assembly to create a study committee to review the existing prostitution laws for the purpose of developing a modern approach to State involvement in sexual activity for hire by consenting adults while maintaining criminal penalties for trafficking, coercion, and exploitation of minors and strong protections for victims of those crimes.

Sec. 2. 13 V.S.A. § 2638 is added to read:

§ 2638. IMMUNITY FROM LIABILITY

(a) As used in this section:

(1) “Human trafficking” has the same meaning as in section 2651 of this title.

(2) “Prostitution” has the same meaning as in section 2631 of this title.

(b) A person who, in good faith and in a timely manner, reports to law enforcement that the person is a victim of or a witness to a crime that arose from the person’s involvement in prostitution or human trafficking shall not be cited, arrested, or prosecuted for a violation of the following offenses:

(1) section 2632 of this title (prostitution);

(2) section 2601a of this title (prohibited conduct);

(3) 18 VSA § 4230(a)(1)-(3) (marijuana possession);

(4) 18 VSA § 4231(a)(1) and (2) (cocaine possession);

(5) 18 VSA § 4232(a)(1) and (2) (LSD possession);

(6) 18 VSA § 4233(a)(1) and (2) (heroin possession);

(7) 18 VSA § 4234(a)(1) and (2) (depressant, stimulant, and narcotic drugs possession);

(8) 18 VSA § 4234a(a)(1) and (a) (methamphetamine possession);

(9) 18 VSA § 4235(b)(1) (hallucinogenic drugs possession); and

(10) 18 VSA § 4235a(a)(1) (Ecstasy possession).

(c) The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person reporting to law enforcement that the person is a victim of or a witness to a crime that

arose from the person's involvement in prostitution or human trafficking and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.

(d) A person who qualifies for immunity pursuant to subsection (b) or (c) of this section shall not be subject to the provisions of 18 V.S.A. chapter 84, subchapter 2 concerning property subject to forfeiture, except that prima facie contraband shall be subject to forfeiture.

(e) Except in cases of reckless or intentional misconduct, law enforcement shall be immune from liability for citing or arresting a person who is later determined to qualify for immunity under this section.

Sec. 3. SEX WORK STUDY COMMITTEE

(a) Creation. There is created the Sex Work Study Committee to make recommendations to the General Assembly regarding modernization of Vermont's prostitution laws.

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

(1) a current member of the House of Representatives appointed by the Speaker of the House;

(2) a current member of the Senate appointed by the Committee on Committees;

(3) the Attorney General or designee;

(4) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;

(5) the Defender General or designee;

(6) the Executive Director of the Center for Crime Victim Services or designee;

(7) the Executive Director of the Vermont Chapter of the American Civil Liberties Union or designee;

(8) the Executive Director of the Network Against Domestic and Sexual Violence or designee and an at-large member with knowledge of Vermont's sex work industry appointed by the Executive Director of the Network Against Domestic and Sexual Violence; and

(9) the Executive Director of the Vermont Pride Center or designee and an at-large member with knowledge of Vermont's sex work industry appointed by the Executive Director of the Vermont Pride Center.

(c) Powers and duties. The Committee shall review 13 V.S.A. chapter 59, subchapter 2 for the purpose of developing a modern approach to State involvement in sexual activity for hire by consenting adults while maintaining criminal penalties for trafficking, coercion, and exploitation of minors and strong protections for victims of those crimes. The Committee shall examine the advantages and disadvantages of criminalization, partial decriminalization, full decriminalization, and legalization and regulation.

(d) Assistance. For purposes of scheduling meetings and preparing recommended legislation, the Committee shall have the assistance of the Office of Legislative Council.

(e) Report. On or before December 15, 2020, the Committee shall submit proposed legislation to the General Assembly based upon its recommendations.

(f) Meetings.

(1) The member of the House of Representatives and the member of the Senate shall be co-chairs of the Committee and call the Committee to order.

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

(3) The Committee shall cease to exist on December 31, 2020.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than four meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) The at-large members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A.

§ 1010 for not more than four meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2020.