

Sec. 4. 13 V.S.A. § 1049 is added to read:

§ 1049. MOTION TO VACATE BY VICTIM OF DOMESTIC ASSAULT

(a) As used in this section:

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(2) “Victim of domestic assault” means a victim of a violation of this subchapter.

* * *

Subchapter includes:

• **§ 1042. Domestic assault**

Any person who attempts to cause or willfully or recklessly causes bodily injury to a family or household member or willfully causes a family or household member to fear imminent serious bodily injury shall be imprisoned not more than 18 months or fined not more than \$5,000.00, or both. (Added 1993, No. 95, § 2; 2007, No. 174 (Adj. Sess.), § 5.)

• **§ 1043. First degree aggravated domestic assault**

(a) A person commits the crime of first degree aggravated domestic assault if the person:

(1) attempts to cause or willfully or recklessly causes serious bodily injury to a family or household member; or

(2) uses, attempts to use, or is armed with a deadly weapon and threatens to use the deadly weapon on a family or household member; or

(3) commits the crime of domestic assault and has been previously convicted of aggravated domestic assault.

(b) A person who commits the crime of first degree aggravated domestic assault shall be imprisoned not more than 15 years or fined not more than \$25,000.00, or both.

(c) Conduct constituting the offense of first degree aggravated domestic assault under this section shall be considered a violent act for the purpose of determining bail. (Added 1993, No. 95, § 2.)

• **§ 1044. Second degree aggravated domestic assault**

(a) A person commits the crime of second degree aggravated domestic assault if the person:

(1) Commits the crime of domestic assault and such conduct violates:

(A) specific conditions of a criminal court order in effect at the time of the offense imposed to protect that other person;

(B) a final abuse prevention order issued under 15 V.S.A. § 1103 or a similar order issued in another jurisdiction;

(C) a final order against stalking or sexual assault issued under 12 V.S.A. § 5133 or a similar order issued in another jurisdiction; or

(D) a final order against abuse of a vulnerable adult issued under 33 V.S.A. § 6935 or a similar order issued in another jurisdiction.

(2) Commits the crime of domestic assault; and

(A) has a prior conviction within the last 10 years for violating an abuse prevention order issued under section 1030 of this title; or

(B) has a prior conviction for domestic assault under section 1042 of this title or a prior conviction in another jurisdiction for an offense that, if committed within the State, would constitute a violation of section 1042 of this title.

(3) As used in this subsection:

(A) "Issued in another jurisdiction" means issued by a court in any other state; in a federally recognized Indian tribe, territory, or possession of the United States; in the Commonwealth of Puerto Rico; or in the District of Columbia.

(B) "Prior conviction in another jurisdiction" means a conviction issued by a court in any other state; in a federally recognized Indian tribe, territory, or possession of the United States; in the Commonwealth of Puerto Rico; or in the District of Columbia.

(b) A person who commits the crime of second degree aggravated domestic assault shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(c) Conduct constituting the offense of second degree aggravated domestic assault under this section shall be considered a violent act for the purpose of determining bail. (Added 1993, No. 95, § 2; amended 2007, No. 174 (Adj. Sess.), § 6; 2013, No. 17, § 11; 2019, No. 7, § 1, eff. April 23, 2019.)

Sec. 5. 13 V.S.A. § 3260 is added to read:

§ 3260. MOTION TO VACATE BY VICTIM OF SEXUAL ASSAULT

(a) As used in this section:

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(2) “Victim of sexual assault” means a victim of a violation of this subchapter.

* * *

Subchapter includes:

• **§ 3252. Sexual assault**

(a) No person shall engage in a sexual act with another person and compel the other person to participate in a sexual act:

(1) without the consent of the other person; or

(2) by threatening or coercing the other person; or

(3) by placing the other person in fear that any person will suffer imminent bodily injury.

(b) No person shall engage in a sexual act with another person and impair substantially the ability of the other person to appraise or control conduct by administering or employing drugs or intoxicants without the knowledge or against the will of the other person.

(c) No person shall engage in a sexual act with a child who is under the age of 16, except:

(1) where the persons are married to each other and the sexual act is consensual; or

(2) where the person is less than 19 years old, the child is at least 15 years old, and the sexual act is consensual.

(d) No person shall engage in a sexual act with a child who is under the age of 18 and is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child, or stepchild.

(e) No person shall engage in a sexual act with a child under the age of 16 if:

(1) the victim is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child, or stepchild; or

(2) the actor is at least 18 years of age, resides in the victim's household, and serves in a parental role with respect to the victim.

(f)(1) A person who violates subsection (a), (b), (d), or (e) of this section shall be imprisoned not less than three years and for a maximum term of life, and, in addition, may be fined not more than \$25,000.00.

(2) A person who violates subsection (c) of this section shall be imprisoned for not more than 20 years, and, in addition, may be fined not more than \$10,000.00.

(g) A person convicted of violating subsection (a), (b), (d), or (e) of this section shall be sentenced under section 3271 of this title. (Added 1977, No. 51, § 1; amended 1985, No. 83, § 2; 1989, No. 293 (Adj. Sess.), § 5; 2005, No. 192 (Adj. Sess.), § 10.)

• **§ 3253. Aggravated sexual assault**

(a) A person commits the crime of aggravated sexual assault if the person commits sexual assault under any one of the following circumstances:

(1) At the time of the sexual assault, the actor causes serious bodily injury to the victim or to another.

(2) The actor is joined or assisted by one or more persons in physically restraining, assaulting, or sexually assaulting the victim.

(3) The actor commits the sexual act under circumstances which constitute the crime of kidnapping.

(4) The actor has previously been convicted in this State of sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault or has been convicted in any jurisdiction in the United States or territories of an offense which would constitute sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault if committed in this State.

(5) At the time of the sexual assault, the actor is armed with a deadly weapon and uses or threatens to use the deadly weapon on the victim or on another.

(6) At the time of the sexual assault, the actor threatens to cause imminent serious bodily injury to the victim or to another and the victim reasonably believes that the actor has the present ability to carry out the threat.

(7) At the time of the sexual assault, the actor applies deadly force to the victim.

(8) The victim is under the age of 13 and the actor is at least 18 years of age.

(9) The victim is subjected by the actor to repeated nonconsensual sexual acts as part of the same occurrence or the victim is subjected to repeated nonconsensual sexual acts as part of the actor's common scheme and plan.

(b) A person who commits the crime of aggravated sexual assault shall be imprisoned not less than ten years and a maximum term of life, and, in addition, may be fined not more than \$50,000.00.

(c)(1) Except as provided in subdivision (2) of this subsection, a sentence ordered pursuant to subsection (b) of this section shall include at least a ten-year term of imprisonment. The ten-year term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year or ten-year term of imprisonment.

(2) The court may depart downwardly from the ten-year term of imprisonment required by subsection (b) of this section and impose a lesser term of incarceration if the court makes written findings on the record that the downward departure will serve the interests of justice and public safety, provided that in no event may the court impose a term of incarceration of less than five years.

(d) A person convicted of violating this section shall be sentenced under section 3271 of this title. (Added 1977, No. 51, § 1; amended 1989, No. 293 (Adj. Sess.), § 6; 2005, No. 79, § 10; 2005, No. 192 (Adj. Sess.), § 10.)

• **§ 3253a. Aggravated sexual assault of a child**

(a) A person commits the crime of aggravated sexual assault of a child if the actor is at least 18 years of age and commits sexual assault against a child under the age of 16 in violation of section 3252 of this title and at least one of the following circumstances exists:

(1) At the time of the sexual assault, the actor causes serious bodily injury to the victim or to another.

(2) The actor is joined or assisted by one or more persons in physically restraining, assaulting, or sexually assaulting the victim.

(3) The actor commits the sexual act under circumstances which constitute the crime of kidnapping.

(4) The actor has previously been convicted in this State of sexual assault under subsection 3252(a) or (b) of this title, aggravated sexual assault under section 3253 of this title, or aggravated sexual assault of a child under this section, or has been convicted in

any jurisdiction in the United States or territories of an offense which would constitute sexual assault under subsection 3252(a) or (b) of this title, aggravated sexual assault under section 3253 of this title, or aggravated sexual assault of a child under this section if committed in this State.

(5) At the time of the sexual assault, the actor is armed with a deadly weapon and uses or threatens to use the deadly weapon on the victim or on another.

(6) At the time of the sexual assault, the actor threatens to cause imminent serious bodily injury to the victim or to another, and the victim reasonably believes that the actor has the present ability to carry out the threat.

(7) At the time of the sexual assault, the actor applies deadly force to the victim.

(8) The victim is subjected by the actor to repeated nonconsensual sexual acts as part of the same occurrence or the victim is subjected to repeated nonconsensual sexual acts as part of the actor's common scheme and plan.

(b) A person who commits the crime of aggravated sexual assault of a child shall be imprisoned for not less than 25 years with a maximum term of life, and, in addition, may be fined not more than \$50,000.00. The 25-year term of imprisonment required by this subsection shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the 25-year term of imprisonment. (Added 2009, No. 1, § 30, eff. March 4, 2009.)

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• **§ 3257. Sexual exploitation of an inmate**

(a) No correctional employee, contractor, or other person providing services to offenders on behalf of the Department of Corrections or pursuant to a court order or in accordance with a condition of parole, probation, supervised community sentence, or furlough shall engage in a sexual act with a person who the employee, contractor, or other person providing services knows:

(1) is confined to a correctional facility; or

(2) is being supervised by the Department of Corrections while on parole, probation, supervised community sentence, or furlough, where the employee, contractor, or other service provider is currently engaged in a direct supervisory relationship with the person being supervised. For purposes of this subdivision, a person is engaged in a direct supervisory relationship with a supervisee if the supervisee is assigned to the caseload of that person.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both. (Added 2005, No. 177 (Adj. Sess.), § 1.)

• **§ 3258. Sexual exploitation of a minor**

(a) No person shall engage in a sexual act with a minor if:

(1) the actor is at least 48 months older than the minor; and

(2) the actor is in a position of power, authority, or supervision over the minor by virtue of the actor's undertaking the responsibility, professionally or voluntarily, to provide for the health or welfare of minors, or guidance, leadership, instruction, or organized recreational activities for minors.

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

(c) A person who violates subsection (a) of this section and who abuses his or her position of power, authority, or supervision over the minor in order to engage in a sexual act shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both. (Added 2009, No. 1, § 13.)

• **§ 3259. Sexual exploitation of a person in the custody of a law enforcement officer**

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another law enforcement officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both. (Added 2019, No. 8, § 2, eff. April 23, 2019.)