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H.18

Introduced by Representatives Burditt of West Rutland and Grad of Moretown

Referred to Committee on

Date:

Subject: Crimes; sexual exploitation of children

Statement of purpose of bill as introduced: This bill proposes to include simulated conduct within the definition of sexual conduct for purposes of the crimes involving sexual exploitation of children.

~~An act relating to sexual exploitation of children.~~ *An act relating to sexual exploitation of children and limited immunity from liability for a person reporting a crime.*

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

~~Sec. 1. 13 V.S.A. § 2821 is amended to read:~~

§ 2821. DEFINITIONS

As used in this chapter:

* * *

(2) "Sexual conduct" means any of the following:

(A) any conduct involving contact between the penis and the vulva, the penis and the penis, the penis and the anus, the mouth and the penis, the mouth and the anus, the vulva and the vulva, or the mouth and the vulva,

1 ~~(B) any intrusion, however slight, by any part of a person's body or~~
2 any object into the genital or anal opening of another with the intent of
3 arousing, appealing to, or gratifying the lust, passions, or sexual desire of any
4 person;

5 (C) any intentional touching, not through the clothing, of the
6 genitals, anus, or breasts of another with the intent of arousing, appealing to,
7 or gratifying the lust, passions, or sexual desire of any person;

8 (D) masturbation;

9 (E) bestiality; or

10 (F) sadomasochistic abuse for sexual purposes; or

11 (G) any simulation of the conduct described in subdivisions (2)(A)–
12 (F) of this section.

13 * * *

14 (7) "Simulation" means the explicit depiction of any conduct described
15 in subdivisions (2)(A)–(F) of this section that creates the appearance of such
16 conduct and that exhibits the uncovered portion of the breasts, genitals, or
17 buttocks.

18 Sec. 2. EFFECTIVE DATE

19 ~~This act shall take effect on July 1, 2021.~~

Sec. 1. 13 V.S.A. § 2821 is amended to read:

~~§ 2821. DEFINITIONS~~

As used in this chapter:

(1) "Child" means any person under 16 years of age.

(2) "Sexual conduct" means any of the following:

(A) any conduct involving contact between the penis and the vulva, the penis and the penis, the penis and the anus, the mouth and the penis, the mouth and the anus, the vulva and the vulva, or the mouth and the vulva;

(B) any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(C) any intentional touching, not through the clothing, of the genitals, anus, or breasts of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(D) masturbation;

(E) bestiality; or

(F) sadomasochistic abuse for sexual purposes; or

*(G) any simulation of the conduct described in subdivisions (2)(A)–
(F) of this section.*

** * **

(7)(A) "Simulation" means the explicit depiction of any conduct described in subdivisions (2)(A)–(F) of this section that.

~~(i) involves a child as defined in subdivision (1) of this section;~~
~~(ii) creates the appearance of such conduct; and~~
~~(iii) exhibits naked genitals, buttocks, or breasts below the top of the areola.~~

~~(B) "Simulation" does not include paintings, drawings, or nonvisual or written descriptions of sexual conduct.~~

~~(C) "Simulation" applies to conduct, not to a simulated child.~~

Sec. 2. EFFECTIVE DATE

~~This act shall take effect on July 1, 2021.~~

Sec. 1. 13 V.S.A. § 2821 is amended to read:

§ 2821. DEFINITIONS

As used in this chapter:

(1) "Child" means any person under 16 years of age.

(2) "Sexual conduct" means any of the following:

(A) any conduct involving contact between the penis and the vulva, the penis and the penis, the penis and the anus, the mouth and the penis, the mouth and the anus, the vulva and the vulva, or the mouth and the vulva;

(B) any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(C) any intentional touching, not through the clothing, of the genitals, anus, or breasts of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(D) masturbation;

(E) bestiality; ~~or~~

(F) sadomasochistic abuse for sexual purposes; or

(G) any simulation of the conduct described in subdivisions (2)(A)–(F) of this section.

* * *

(7)(A) “Simulation” means the explicit depiction of any conduct described in subdivisions (2)(A)–(F) of this section that:

(i) involves a child as defined in subdivision (1) of this section;

(ii) creates the appearance of such conduct; and

(iii) exhibits naked genitals, buttocks, or breasts below the top of the areola.

(B) “Simulation” does not include paintings, drawings, or nonvisual or written descriptions of sexual conduct.

(C) “Simulation” applies only to conduct.

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 V.S.A. § 4230(a)(1)–(3) (cannabis possession);

(4) 18 V.S.A. § 4231(a)(1) and (2) (cocaine possession);

(5) 18 V.S.A. § 4232(a)(1) and (2) (LSD possession);

(6) 18 V.S.A. § 4233(a)(1) and (2) (heroin possession);

(7) 18 V.S.A. § 4234(a)(1) and (2) (depressant, stimulant, and narcotic drugs possession);

(8) 18 V.S.A. § 4234a(a)(1) and (2) (methamphetamine possession);

(9) 18 V.S.A. § 4235(b)(1) (hallucinogenic drugs possession); and

(10) 18 V.S.A. § 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. EFFECTIVE DATE

This act shall take effect on July 1, 2021.