
Referred to Committee on

Date:

Subject: Crimes; sexual assault

Statement of purpose of bill as introduced: This bill proposes to revise and clarify the laws concerning consent to sexual activity, require data collection and reporting of information concerning reports of domestic and sexual violence, establish the Intercollegiate Sexual Violence Prevention Council, and
fund the expansion of forensic medical care for sexual assault patients within primary care and reproductive health care settings.

An act relating to sexual violence

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

Sec. 1. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

* * *

(3) “Consent” means words or actions by a person indicating a knowing and voluntary agreement to engage in a sexual act.

* * *

(10) “Developmental disability” has the same meaning as in 18 V.S.A. § 9302.

(11) “Psychiatric disability” has the same meaning as in 1 V.S.A. § 147.

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Sec. 2. 13 V.S.A. § 3252 is amended to read:

§ 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) with words or actions demonstrating a knowing and voluntary agreement to engage in a sexual act;

(3) when the person has reason to know that the other person is unable to consent due to a developmental disability or a psychiatric disability; or

(4) when the person knows or has reason to know that the other person is unconscious, incapacitated, or otherwise unable to give consent.

* * *
(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; or

(4) when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring.

(b)(1) 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 administer any alcohol, drugs, or other intoxicants to another person without the person’s knowledge or against the person’s will and, while the person is impaired by the alcohol, drugs, or intoxicants, engage in a sexual act with that person.

(2) No person shall engage in a sexual act with another person when the other person is incapable of consenting to the sexual act due to:

(A) impairment by alcohol, drugs, or other intoxicants and that condition is known or reasonably should be known by the person; or

(B) psychiatric or developmental disability and that condition is known or reasonably should be known by the person.
(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.

* * *

(g) A person convicted of violating subsection (a), (b), (d), or (e) of this section shall be sentenced under section 3271 of this title.

Sec. 3. 13 V.S.A. § 3254 is amended to read:

§ 3254. TRIAL PROCEDURE; CONSENT

In a prosecution for a crime defined in this chapter or section 2601 of this title:

(1) Lack of consent may be shown without proof of resistance; Lack of verbal or physical resistance does not constitute consent.

(2) An expression of lack of consent through words or conduct means there is no consent.

(3) Submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent.

(4) A current or previous dating, social, or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent.

(5) A sleeping or unconscious person cannot consent.
A person shall be deemed to have acted without the consent of the other person where the actor:

(A) knew or reasonably should have known that the other person is mentally incapable of understanding the nature of the sexual act or lewd and lascivious conduct; or

(B) knew or reasonably should have known that the other person is not physically capable of resisting, or declining consent to, the sexual act or lewd and lascivious conduct; or

(C) knew or reasonably should have known that the other person is unaware that a sexual act or lewd and lascivious conduct is being committed; or

(D) knew or reasonably should have known that the other person is mentally incapable of resisting, or declining consent to, the sexual act or lewd and lascivious conduct, due to a mental condition or a psychiatric or developmental disability as defined in 14 V.S.A. § 3064; or

(E) knew or reasonably should have known that the other person was incapable of making a knowing and voluntary decision to engage in the sexual act with the actor because the person was substantially impaired by alcohol, drugs, or other intoxicants.
Sec. 4. DATA COLLECTION AND REPORTING

(a)(1) On or before July 1, 2021, every State, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with 20 V.S.A. § 2358 shall begin to collect data on the following:

(A) the number of domestic and sexual violence cases reported to the agency or constable; and

(B) the number of domestic and sexual violence cases the agency or constable refers to a State’s attorney or the Attorney General for potential charges.

(2) On or before September 1, 2022 and annually thereafter, every State, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with 20 V.S.A. § 2358 shall report the data collected pursuant to subdivision (a)(1) of this section to the Vermont Crime Information Center.

(b)(1) On or before July 1, 2021, the Judiciary shall begin to collect data on the following:

(A) the number of domestic and sexual violence cases charged and the nature of the charge; and

(B) the disposition of those charges.
(2) On or before September 1, 2022 and annually thereafter, the
Judiciary shall report the data collected pursuant to subdivision (b)(1) of this
section to the Vermont Crime Information Center.

(c) Not later than December 1, 2023 and annually thereafter, the Vermont
Crime Information Center shall aggregate by county the data collected
pursuant to subsections (a) and (b) of this section, report that data to the
General Assembly, and post the data on its website in a manner that is clear,
understandable, analyzable, and accessible to the public.

Sec. 5. 16 V.S.A. § 2187 is added to read:

§ 2187. INTERCOLLEGIATE SEXUAL VIOLENCE PREVENTION

COUNCIL

(a) Creation. There is created the Intercollegiate Sexual Violence
Prevention Council to create a coordinated response to campus sexual harm,
including across institutions of higher learning in Vermont.

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

(1) the Title IX coordinator from each institution of higher learning in
Vermont;

(2) a campus-based prevention/education coordinator appointed by the
Vermont State Colleges;
(3) a campus-based prevention/education coordinator appointed by the University of Vermont;

(4) a campus-based prevention/education coordinator appointed by the Association of Vermont Independent Colleges;

(5) two community-based sexual violence advocates appointed by the Network Against Domestic and Sexual Violence;

(6) two law enforcement of public safety representatives with experience responding to and investigating campus sexual violence appointed by the Commissioner of Public Safety;

(7) two college students appointed by the Center for Crime Victim Services; and

(8) a person with expertise in sexual violence responses within the lesbian, gay, bisexual, transgender, queer community appointed by the Vermont Center for Crime Victim Services.

(c) Duties. The Council shall be responsible for the following:

(1) interdisciplinary planning and information sharing to support sexual violence prevention programs on every college campus in Vermont;

(2) an annual review of aggregate data collected from climate surveys on sexual violence on college campuses in Vermont; and
(3) development and distribution of best practices and recommendations on violence prevention, sexual health education, and strategies for mitigating sexual violence and tertiary violence on college campuses in Vermont.

(d) Assistance. The Council shall have the administrative and technical assistance of the Network Against Domestic and Sexual Violence.

(e) Report. On or before December 2022 and annually thereafter, the Council shall submit a written report to the General Assembly with a summary of activities and any recommendations for legislative action.

(f) Meetings.

(1) The Network Against Domestic and Sexual Violence shall call the first meeting of the Council to occur on or before September 15, 2021.

(2) The Council shall select a chair from among its members at the first meeting.

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

(4) Members who are not otherwise compensated by the member’s employer for attendance at meetings shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. These payments shall be made from monies appropriated to the Network Against Domestic and Sexual Violence for such purposes.
Sec. 6. APPROPRIATIONS

(a) In fiscal year 2022, $13,000.00 is appropriated to the Network Against Domestic and Sexual Violence for the purpose of staffing the Intercollegiate Sexual Violence Prevention Council and per diem compensation and reimbursement of expenses for members who are not otherwise compensated by the member’s employer for attendance at meetings.

(b) In fiscal year 2022, $40,000.00 is appropriated to the Vermont Center for Crime Victim Services for use in the Vermont Forensic Nursing Program for the purpose of providing forensic medical care for sexual assault patients within primary care and reproductive health care settings.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2021.