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H.183

Introduced by Representatives Copeland Hanzas of Bradford, Grad of
Moretown, Colburn of Burlington, Anthony of Barre City,
Briglin of Thetford, Burke of Brattleboro, Campbell of St.
Johnsbury, Christie of Hartford, Coffey of Guilford, Colston of
Winooski, Cordes of Lincoln, Donnally of Hyde Park, Elder of
Starksboro, Goldman of Rockingham, James of Manchester,
Killacky of South Burlington, Kornheiser of Brattleboro,
Masland of Thetford, McCullough of Williston, Mrowicki of
Putney, Patt of Worcester, Stebbins of Burlington, Stevens of
Waterbury, Surprenant of Barnard, Till of Jericho, Townsend of
South Burlington, Wood of Waterbury, Yacovone of
Morristown, and Yantachka of Charlotte

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

1 fund the expansion of forensic medical care for sexual assault patients within
2 primary care and reproductive health care settings.

3 An act relating to sexual violence

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

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

6 § 3251. DEFINITIONS

7 As used in this chapter:

8 * * *

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

11 * * *

12 (10) "Developmental disability" has the same meaning as in 18 V.S.A.
13 § 9302.

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

15 * * *

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

17 § 3252. SEXUAL ASSAULT

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

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

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

4 * * *

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

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

8 § 3254. TRIAL PROCEDURE; CONSENT

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

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

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

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

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

20 (5) A sleeping or unconscious person cannot consent.

1 (6) a A person shall be deemed to have acted without the consent of the
2 other person where the actor:

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

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

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

12 (D) ~~knows~~ knew or reasonably should have known that the other
13 person ~~is~~ was mentally incapable of resisting, or declining consent to, the
14 sexual act or lewd and lascivious conduct; due to a ~~mental condition or a~~
15 psychiatric or developmental disability ~~as defined in 14 V.S.A. § 3061; or~~

16 (E) knew or reasonably should have known that the other person was
17 incapable of making a knowing and voluntary decision to engage in the sexual
18 act with the actor because the person was substantially impaired by alcohol,
19 drugs, or other intoxicants.

1 Sec. 4. DATA COLLECTION AND REPORTING

2 (a)(1) On or before July 1, 2021, every State, county, and municipal law
3 enforcement agency and every constable who exercises law enforcement
4 authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with
5 20 V.S.A. § 2358 shall begin to collect data on the following:

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

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

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

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

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

21 (B) the disposition of those charges.

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

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

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

10 § 2187. INTERCOLLEGIATE SEXUAL VIOLENCE PREVENTION

11 COUNCIL

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

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

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

19 (2) a campus-based prevention/education coordinator appointed by the
20 Vermont State Colleges;

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

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

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

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

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

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

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

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

18 (2) an annual review of aggregate data collected from climate surveys
19 on sexual violence on college campuses in Vermont; and

1 (3) development and distribution of best practices and recommendations
2 on violence prevention, sexual health education, and strategies for mitigating
3 sexual violence and tertiary violence on college campuses in Vermont.

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

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

9 (f) Meetings.

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

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

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

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

1 Sec. 6. APPROPRIATIONS

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

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

11 Sec. 7. EFFECTIVE DATE

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