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H.268

Introduced by Representatives Colburn of Burlington, Grad of Moretown,
Donnally of Hyde Park, Killacky of South Burlington,
Kornheiser of Brattleboro, Masland of Thetford, Notte of
Rutland City, Rachelson of Burlington, Small of Winooski, and
White of Hartford

Referred to Committee on

Date:

Subject: Crimes; prostitution

Statement of purpose of bill as introduced: This bill proposes to provide
limited immunity from prosecution for certain crimes for 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 and to create a sex work study committee
for the purpose of modernizing Vermont's prostitution laws.

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.

1 (b) Under current Vermont law:

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

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

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

15 (c) In 2011, Vermont adopted comprehensive laws to address the issue of
16 human trafficking. These laws prohibit coerced commercial sex and
17 commercial sex involving minors, and penalties range from a maximum of five
18 years imprisonment (facilitation of human trafficking) to a mandatory 20 years
19 to life imprisonment (aggravated trafficking). Vermont’s prostitution laws
20 were never updated to reflect the adoption of the human trafficking laws.

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

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

15 § 2638. IMMUNITY FROM LIABILITY

16 (a) As used in this section:

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

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

20 (b) A person who, in good faith and in a timely manner, reports to law
21 enforcement that the person is a victim of or a witness to a crime that arose

1 from the person's involvement in prostitution or human trafficking shall not be
2 cited, arrested, or prosecuted for a violation of the following offenses:

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

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

5 (3) 18 VSA § 4230(a)(1)–(3) (marijuana possession);

6 (4) 18 VSA § 4231(a)(1) and (2) (cocaine possession);

7 (5) 18 VSA § 4232(a)(1) and (2) (LSD possession);

8 (6) 18 VSA § 4233(a)(1) and (2) (heroin possession);

9 (7) 18 VSA § 4234(a)(1) and (2) (depressant, stimulant, and narcotic
10 drugs possession);

11 (8) 18 VSA § 4234a(a)(1)–(3) (methamphetamine possession);

12 (9) 18 VSA § 4235(b)(1) (hallucinogenic drugs possession); and

13 (10) 18 VSA § 4235a(a)(1) (Ecstasy possession).

14 (c) The immunity provisions of this section apply only to the use and
15 derivative use of evidence gained as a proximate result of the person reporting
16 to law enforcement that the person is a victim of or a witness to a crime that
17 arose from the person's involvement in prostitution or human trafficking and
18 do not preclude prosecution of the person on the basis of evidence obtained
19 from an independent source.

20 (d) A person who qualifies for immunity pursuant to subsection (b) or (c)
21 of this section shall not be subject to the provisions of 18 V.S.A. chapter 84,

1 subchapter 2 concerning property subject to forfeiture, except that prima facie
2 contraband shall be subject to forfeiture.

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

6 Sec. 3. SEX WORK STUDY COMMITTEE

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

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

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

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

16 (3) the Attorney General or designee;

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

19 (5) the Defender General or designee;

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

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

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

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

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

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

1 (e) Report. On or before December 15, 2021, the Committee shall submit
2 proposed legislation to the General Assembly based upon its
3 recommendations.

4 (f) Meetings.

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

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

8 (3) The Committee shall cease to exist on December 31, 2021.

9 (g) Compensation and reimbursement.

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

16 (2) The at-large members of the Committee shall be entitled to per diem
17 compensation and reimbursement of expenses as permitted under 32 V.S.A.
18 § 1010 for not more than four meetings. These payments shall be made from
19 monies appropriated to the General Assembly.

20 Sec. 4. EFFECTIVE DATE

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