H.475

Introduced by Representatives Grad of Moretown, LaLonde of South Burlington, and Notte of Rutland City

Referred to Committee on

Date:

Subject: Criminal procedure; classification of criminal offenses

Statement of purpose of bill as introduced: This bill proposes to place offenses against the person, sexual offenses, and drug offenses within the classification system for criminal offenses.

An act relating to the classification system for criminal offenses

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

Sec. 1. 13 V.S.A. § 1023 is amended to read:

§ 1023. SIMPLE ASSAULT

(a) A person is guilty of simple assault if he or she:

(1) attempts to cause or purposely, knowingly, or recklessly causes bodily injury to another; or

(2) negligently causes bodily injury to another with a deadly weapon; or

(3) attempts by physical menace to put another in fear of imminent serious bodily injury.
(b) A person who is convicted of simple assault shall be imprisoned for not more than one year or fined not more than $1,000.00, or both commits a Class B misdemeanor, unless the offense is committed in a fight or scuffle entered into by mutual consent, in which case a person convicted of simple assault shall be imprisoned not more than 60 days or fined not more than $500.00, or both commits a Class D misdemeanor.

Sec. 2. 13 V.S.A. § 1024 is amended to read:

§ 1024. AGGRAVATED ASSAULT

(a) A person is guilty of aggravated assault if the person:

(1) attempts to cause serious bodily injury to another, or causes such injury purposely, knowingly, or recklessly under circumstances manifesting extreme indifference to the value of human life;

(2) attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon;

(3) for a purpose other than lawful medical or therapeutic treatment, the person intentionally causes stupor, unconsciousness, or other physical or mental impairment or injury to another person by administering to the other person without the other person’s consent a drug, substance, or preparation capable of producing the intended harm;

(4) with intent to prevent a law enforcement officer from performing a lawful duty, the person causes physical injury to any person; or
(5) is armed with a deadly weapon and threatens to use the deadly
weapon on another person.

(b) A person found guilty of violating a provision of subdivision (a)(1) or
(2) of this section shall be imprisoned for not more than 15 years or fined not
more than $10,000.00, or both commits a Class C felony.

(c) A person found guilty of violating a provision of subdivision (a)(3), (4),
or (5) of this section shall be imprisoned for not more than five years or fined
not more than $5,000.00, or both commits a Class D felony.

* * *

Sec. 3. 13 V.S.A. § 1026 is amended to read:

§ 1026. DISORDERLY CONDUCT

(a) A person is guilty of disorderly conduct if he or she, the person, with
intent to cause public inconvenience or annoyance, or recklessly creates a risk
thereof:

(1) engages in fighting or in violent, tumultuous, or threatening
behavior;

(2) makes unreasonable noise;

(3) in a public place, uses abusive or obscene language;

(4) without lawful authority, disturbs any lawful assembly or meeting of
persons; or

(5) obstructs vehicular or pedestrian traffic.
(b) A person who is convicted of disorderly conduct shall be imprisoned for not more than 60 days or fined not more than $500.00, or both. A person who is convicted of a second or subsequent offense under this section shall be imprisoned for not more than 120 days or fined not more than $1,000.00, or both commits a Class D misdemeanor.

Sec. 4. 13 V.S.A. § 1026a is amended to read:

§ 1026a. AGGRAVATED DISORDERLY CONDUCT

(a) A person is guilty of aggravated disorderly conduct if he or she engages in a course of conduct directed at a specific person with the intent to cause the person inconvenience or annoyance, or to disturb the person’s peace, quiet, or right of privacy and:

(1) engages in fighting or in violent, tumultuous, or threatening behavior;

(2) makes unreasonable noise;

(3) in a public place, uses abusive or obscene language; or

(4) threatens bodily injury or serious bodily injury, or threatens to commit a felony crime of violence as defined in section 11a of this title.

(b) A person who is convicted of aggravated disorderly conduct shall be imprisoned not more than 180 days or fined not more than $2,000.00, or both commits a Class C misdemeanor.
Sec. 5. 13 V.S.A. § 1027 is amended to read:

§ 1027. DISTURBING PEACE BY USE OF TELEPHONE OR OTHER ELECTRONIC COMMUNICATIONS

(a) A person who, with intent to terrify, intimidate, threaten, harass, or annoy, makes contact by means of a telephonic or other electronic communication with another and makes any request, suggestion, or proposal that is obscene, lewd, lascivious, or indecent; threatens to inflict injury or physical harm to the person or property of any person; or disturbs, or attempts to disturb, by repeated telephone calls or other electronic communications, whether or not conversation ensues, the peace, quiet, or right of privacy of any person at the place where the communication or communications are received shall be fined not more than $250.00 or be imprisoned not more than three months, or both. If the defendant has previously been convicted of a violation of this section or of an offense under the laws of another state or of the United States that would have been an offense under this section if committed in this State, the defendant shall be fined not more than $500.00 or imprisoned for not more than six months, or both commits a Class D misdemeanor.

* * *
Sec. 6. 13 V.S.A. § 1028 is amended to read:

§ 1028. ASSAULT OF PROTECTED PROFESSIONAL; ASSAULT WITH BODILY FLUIDS

(a) A person convicted of a simple or aggravated assault against a protected professional as defined in subdivision (d)(1) of this section while the protected professional is performing a lawful duty, or with the intent to prevent the protected professional from performing his or her lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:

(1) for the first offense, be imprisoned not more than one year commits

a Class B misdemeanor;

(2) for the second offense and subsequent offenses, be imprisoned not more than 10 years commits a Class E felony.

(b)(1) No person shall intentionally cause blood, vomitus, excrement, mucus, saliva, semen, or urine to come in contact with a protected professional while the person is performing a lawful duty.

(2) A person who violates this subsection shall be imprisoned not more than one year or fined not more than $1,000.00, or both commits a Class B misdemeanor.
Sec. 7. 13 V.S.A. § 1028a is amended to read:

§ 1028a. ASSAULT OF CORRECTIONAL OFFICER; ASSAULT WITH BODILY FLUIDS

(a) A person convicted of a simple or aggravated assault against an employee of the Department of Corrections whose official duties or job classification includes the supervision or monitoring of a person on parole, probation, or serving any sentence of incarceration whether inside or outside a correctional facility, and who was performing a lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:

(1) for the first offense, be imprisoned not more than one year commits a Class B misdemeanor; and

(2) for the second offense and subsequent offenses, be imprisoned not more than 10 years commits a Class E felony.

(b) No person shall intentionally cause blood, vomitus, excrement, mucus, saliva, semen, or urine to come in contact with:

(1) any person lawfully present in a correctional facility unless the person’s presence within the facility requires the contact; or

(2) an employee of a correctional facility acting in the scope of employment unless the employee’s scope of employment requires the contact.
(c) A person who violates subsection (b) of this section shall be imprisoned not more than two years or fined not more than $1,000.00, or both commits a Class B misdemeanor.

(d) A sentence imposed for a conviction of this section shall be served consecutively with and not concurrently with any other sentence.

Sec. 8. 13 V.S.A. § 1030 is amended to read:

§ 1030. VIOLATION OF AN ABUSE PREVENTION ORDER, AN ORDER AGAINST STALKING OR SEXUAL ASSAULT, OR A PROTECTIVE ORDER CONCERNING CONTACT WITH A CHILD

(a) A person who intentionally commits an act prohibited by a court or who fails to perform an act ordered by a court, in violation of an abuse prevention order issued under 15 V.S.A. chapter 21 or 33 V.S.A. chapter 69, a protective order that concerns contact with a child and is issued under 33 V.S.A. chapter 51, or an order against stalking or sexual assault issued under 12 V.S.A. chapter 178, after the person has been served notice of the contents of the order as provided in those chapters; or in violation of a foreign abuse prevention order or an order against stalking or sexual assault issued by a court in any other state, federally recognized Indian tribe, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of
Columbia shall be imprisoned not more than one year or fined not more than $5,000.00, or both commits a Class B misdemeanor.

(b) A person who is convicted of a second or subsequent offense under this section or is convicted of an offense under this section and has previously been convicted of domestic assault under section 1042 of this title, first degree aggravated domestic assault under section 1043 of this title, or second degree aggravated domestic assault under section 1044 of this title shall be imprisoned not more than three years or fined not more than $25,000.00, or both commits a Class E felony.

* * *

Sec. 9. 13 V.S.A. § 1031 is amended to read:

§ 1031. INTERFERENCE WITH ACCESS TO EMERGENCY SERVICES

A person who, during or after the commission of a crime, willfully prevents or attempts to prevent a person from seeking or receiving emergency medical assistance, emergency assistance from a third party, or emergency assistance from law enforcement shall be imprisoned not more than one year or fined not more than $5,000.00, or both commits a Class B misdemeanor.

Sec. 10. 13 V.S.A. § 1042 is amended to read:

§ 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
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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 commits a Class A misdemeanor.

Sec. 11. 13 V.S.A. § 1043 is amended to read:

§ 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) Notwithstanding section 54 of this title, 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.
Sec. 12. 13 V.S.A. § 1044 is amended to read:

§ 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 commits a Class D felony.

* * *

Sec. 13. 13 V.S.A. § 1062 is amended to read:

§ 1062. STALKING

Any person who intentionally stalks another person shall be imprisoned not more than two years or fined not more than $5,000.00, or both commits a Class A misdemeanor.

Sec. 14 13 V.S.A. § 1063 is amended to read:

§ 1063. AGGRAVATED STALKING

(a) A person commits the crime of aggravated stalking if the person intentionally stalks another person, and:
(1) such conduct violates a court order that prohibits stalking and is in effect at the time of the offense;

(2) has been previously convicted of stalking or aggravated stalking;

(3) has been previously convicted of an offense an element of which involves an act of violence against the same person;

(4) the person being stalked is under 16 years of age; or

(5) had a deadly weapon, as defined in section 1021 of this title, in his or her the person’s possession while engaged in the act of stalking.

(b) A person who commits the crime of aggravated stalking shall be imprisoned not more than five years or be fined not more than $25,000.00, or both commits a Class D felony.

* * *

Sec. 15. 13 V.S.A. § 1201 is amended to read:

§ 1201. BURGLARY

(a) A person is guilty of burglary if he or she the person enters any building or structure knowing that he or she the person is not licensed or privileged to do so, with the intent to commit a felony, petit larceny, simple assault, or unlawful mischief. This provision shall not apply to a licensed or privileged entry, or to an entry that takes place while the premises are open to the public, unless the person, with the intent to commit a crime specified in this
subsection, surreptitiously remains in the building or structure after the license or privilege expires or after the premises no longer are open to the public.

(b) As used in this section:

(1) “Building,” “premises,” and “structure” shall, in addition to their common meanings, include and mean any portion of a building, structure, or premises that differs from one or more other portions of such building, structure, or premises with respect to license or privilege to enter, or to being open to the public.

(2) “Occupied dwelling” means a building used as a residence, either full time or part time, regardless of whether someone is actually present in the building at the time of entry.

(c)(1) A person convicted of burglary shall be imprisoned not more than 15 years or fined not more than $1,000.00, or both commits a Class C felony.

(2) A person convicted of burglary and who carries a dangerous or deadly weapon, openly or concealed, shall, in addition to the penalty for the underlying crime, be imprisoned not more than 5 years or fined not more than $10,000.00, or both.

(3) A person convicted of burglary into an occupied dwelling:

(A) shall be imprisoned not more than 25 years or fined not more than $1,000.00, or both; or
(B) shall, in addition to the penalty for the underlying crime, be
imprisoned not more than 30 5 years or fined not more than $10,000.00, or
both, if the person carried a dangerous or deadly weapon, openly or concealed,
during commission of the offense.

(4) When imposing a sentence under this section, the court shall
consider as an aggravating factor whether, during commission of the offense,
the person entered the building when someone was actually present or used or
threatened to use force against the occupant.

Sec. 16. 13 V.S.A. § 1204 is amended to read:

§ 1204. MAKING OR HAVING BURGLAR’S TOOLS

A person who manufactures or knowingly has in his or her possession any engine, machine, tool, or implement, adapted and designed for
cutting through, forcing or breaking open any building, room, vault, safe, or
other depository, in order to steal therefrom money or other property, knowing
the same to be adapted and designed for such purpose, with intent to use or
employ the same therefor, shall be imprisoned not more than 20 years or fined
not more than $10,000.00, or both commits a Class D felony.

Sec. 17. 13 V.S.A. § 2405 is amended to read:

§ 2405. KIDNAPPING

* * *
(b) Kidnapping is punishable by a maximum sentence of life imprisonment or a fine of not more than $50,000.00, or both a Class A felony. It is, however, an affirmative defense which reduces the penalty to imprisonment for not more than 30 years or a fine of not more than $50,000.00, or both, a Class B felony that the defendant voluntarily caused the release of the victim alive in a safe place before arraignment without having caused serious bodily injury to the victim.

Sec. 18. 13 V.S.A. § 2406 is amended to read:

§ 2406. UNLAWFUL RESTRAINT IN THE SECOND DEGREE

(a) A person commits the crime of unlawful restraint in the second degree if the person:

(1) not being a relative of a person under the age of 18 years of age, knowingly takes, entices, or harbors that person, without the consent of the person’s custodian, knowing that he or she has no right to do so; or

(2) knowingly takes or entices from lawful custody or harbors any person who is mentally incompetent, or other person entrusted by authority of law to the custody of another person or an institution, without the consent of the person or institution, knowing that he or she has no right to do so; or

(3) knowingly restrains another person.
(b) It is a defense to a prosecution under this section that the defendant acted reasonably and in good faith to protect the person from imminent physical or emotional danger.

(c) Unlawful restraint in the second degree is punishable by imprisonment for not more than five years or a fine of not more than $25,000.00, or both a Class D felony.

Sec. 19. 13 V.S.A. § 2407 is amended to read:

§ 2407. UNLAWFUL RESTRAINT IN THE FIRST DEGREE

(a) A person commits the crime of unlawful restraint in the first degree if that person:

(1) knowingly restrains another person under circumstances exposing that person to a risk of serious bodily injury; or

(2) holds another person in a condition of involuntary servitude.

(b) Unlawful restraint in the first degree is punishable by imprisonment for not more than 15 years or a fine of not more than $50,000.00, or both a Class C felony.

Sec. 20. 13 V.S.A. § 2451 is amended to read:

§ 2451. CUSTODIAL INTERFERENCE

(a) A person commits custodial interference by taking, enticing, or keeping a child from the child’s lawful custodian, knowingly, without a legal right to
do so, when the person is a relative of the child and the child is less than 18 years of age.

(b) A person who commits custodial interference shall be imprisoned not more than five years or fined not more than $5,000.00, or both commits a Class D felony.

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Sec. 21. 13 V.S.A. § 608 is amended to read:

§ 608. ASSAULT AND ROBBERY

(a) A person who assaults another and robs, steals, or takes from his or her the other person or in his or her the other person’s presence money or other property that may be the subject of larceny shall be imprisoned for not more than 10 years commits a Class C felony.

(b) A person who, being armed with a dangerous weapon, assaults another and robs, steals, or takes from his or her the other person or in his or her the other person’s presence money or other property that may be the subject of larceny shall, in addition to the penalty for the underlying crime, be imprisoned for not more than 15 years nor less than one year.

(c) If in the attempt or commission of an offense under subsection (a) or (b) of this section, a person causes bodily injury, such the person shall, in addition to the penalty for the underlying crime, be imprisoned for not more than 20 years.
years nor less than one year. Any penalty imposed under this subsection shall be in lieu of any penalty imposed under subsection (a) or (b) of this section.

Sec. 2. 13 V.S.A. § 2303 is amended to read:

§ 2303. PENALTIES FOR FIRST AND SECOND DEGREE MURDER

(a)(1) The punishment for murder in the first degree shall be imprisonment for:

(A) a minimum term of not less than 35 years and a maximum term of life; or

(B) life without the possibility of parole a Class A felony, subject to the provisions of subsection (b) of this section.

(2) The punishment for murder in the second degree shall be imprisonment for:

(A) a minimum term of not less than 20 years and a maximum term of life; or

(B) life without the possibility of parole.

(3) Notwithstanding any other provision of law, this subsection shall apply only if the murder was committed on or after the effective date of this act a Class A felony, subject to the provisions of subsection (c) of this section.

(b) The punishment for murder in the first degree shall be imprisonment for life and for a minimum term of 35 years unless a jury finds that there are aggravating or mitigating factors which justify a different minimum term.
If the jury finds that the aggravating factors outweigh any mitigating factors, 
the court may set a minimum term longer than 35 years, up to and including 
life without parole. If the jury finds that the mitigating factors outweigh any 
aggravating factors, the court may set a minimum term at less than 35 years but 
not less than 15 years.

(c) The punishment for murder in the second degree shall be imprisonment 
for life and for a minimum term of 20 years unless a jury finds that there are 
aggravating or mitigating factors which that justify a different minimum term. 
If the jury finds that the aggravating factors outweigh any mitigating factors, 
the court may set a minimum term longer than 20 years, up to and including 
life without parole. If the jury finds that the mitigating factors outweigh any 
aggravating factors, the court may set a minimum term at less than 20 years but 
not less than 10 years.

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Sec. 23. 13 V.S.A. § 2304 is amended to read:

§ 2304. MANSLAUGHTER- PENALTIES 

A person who commits manslaughter shall be fined not more than 
$3,000.00 or imprisoned for not less than one year nor more than 15 years, or 
both commits a Class C felony.
Sec. 24. 13 V.S.A. § 1378 is amended to read:

§ 1378. NEGLECT

   (a) A caregiver who intentionally or recklessly neglects a vulnerable adult shall be imprisoned not more than 18 months or fined not more than $10,000.00, or both commits a Class A misdemeanor.

   (b) A caregiver who violates subsection (a) of this section, and as a result of such neglect, serious bodily injury occurs to the vulnerable adult, shall be imprisoned not more than 15 years or fined not more than $10,000.00, or both commits a Class B misdemeanor.

Sec. 25. EFFECTIVE DATE

This act shall take effect on July 1, 2022.