

1
2
3
4
5
6
7
8
9

10
11
12
13
14
15
16
17
18
19

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.

1 (b) A person who is convicted of simple assault ~~shall be imprisoned for not~~
2 ~~more than one year or fined not more than \$1,000.00, or both~~ commits a Class
3 B misdemeanor, unless the offense is committed in a fight or scuffle entered
4 into by mutual consent, in which case a person convicted of simple assault
5 ~~shall be imprisoned not more than 60 days or fined not more than \$500.00, or~~
6 ~~both~~ commits a Class D misdemeanor.

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

8 § 1024. AGGRAVATED ASSAULT

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

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

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

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

20 (4) with intent to prevent a law enforcement officer from performing a
21 lawful duty, the person causes physical injury to any person; or

1 (5) is armed with a deadly weapon and threatens to use the deadly
2 weapon on another person.

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

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

9 * * *

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

11 § 1026. DISORDERLY CONDUCT

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

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

17 (2) makes unreasonable noise;

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

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

21 (5) obstructs vehicular or pedestrian traffic.

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

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

7 § 1026a. AGGRAVATED DISORDERLY CONDUCT

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

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

14 (2) makes unreasonable noise;

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

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

18 (b) A person who is convicted of aggravated disorderly conduct ~~shall be~~
19 ~~imprisoned not more than 180 days or fined not more than \$2,000.00, or both~~
20 commits a Class C misdemeanor.

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

2 § 1028. ASSAULT OF PROTECTED PROFESSIONAL; ASSAULT WITH
3 BODILY FLUIDS

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

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

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

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

17 (2) A person who violates this subsection ~~shall be imprisoned not more~~
18 ~~than one year or fined not more than \$1,000.00, or both~~ commits a Class B
19 misdemeanor.

20 * * *

1 Sec. 7. 13 V.S.A. § 1028a is amended to read:

2 § 1028a. ASSAULT OF CORRECTIONAL OFFICER; ASSAULT WITH
3 BODILY FLUIDS

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

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

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

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

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

18 (2) an employee of a correctional facility acting in the scope of
19 employment unless the employee's scope of employment requires the contact.

1 (c) A person who violates subsection (b) of this section ~~shall be imprisoned~~
2 ~~not more than two years or fined not more than \$1,000.00, or both~~ commits a
3 Class B misdemeanor.

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

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

7 § 1030. VIOLATION OF AN ABUSE PREVENTION ORDER, AN ORDER
8 AGAINST STALKING OR SEXUAL ASSAULT, OR A
9 PROTECTIVE ORDER CONCERNING CONTACT WITH A
10 CHILD

11 (a) A person who intentionally commits an act prohibited by a court or who
12 fails to perform an act ordered by a court, in violation of an abuse prevention
13 order issued under 15 V.S.A. chapter 21 or 33 V.S.A. chapter 69, a protective
14 order that concerns contact with a child and is issued under 33 V.S.A.
15 chapter 51, or an order against stalking or sexual assault issued under
16 12 V.S.A. chapter 178, after the person has been served notice of the contents
17 of the order as provided in those chapters; or in violation of a foreign abuse
18 prevention order or an order against stalking or sexual assault issued by a court
19 in any other state, federally recognized Indian tribe, territory or possession of
20 the United States, the Commonwealth of Puerto Rico, or the District of

1 Columbia ~~shall be imprisoned not more than one year or fined not more than~~
2 ~~\$5,000.00, or both~~ commits a Class B misdemeanor.

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

10 * * *

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

12 § 1031. INTERFERENCE WITH ACCESS TO EMERGENCY SERVICES

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

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

19 § 1042. DOMESTIC ASSAULT

20 Any person who attempts to cause or willfully or recklessly causes bodily
21 injury to a family or household member or willfully causes a family or

1 household member to fear imminent serious bodily injury ~~shall be imprisoned~~
2 ~~not more than 18 months or fined not more than \$5,000.00, or both~~ commits a
3 Class A misdemeanor.

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

5 § 1043. FIRST DEGREE AGGRAVATED DOMESTIC ASSAULT

6 (a) A person commits the crime of first degree aggravated domestic assault
7 if the person:

8 (1) attempts to cause or willfully or recklessly causes serious bodily
9 injury to a family or household member; ~~or~~

10 (2) uses, attempts to use, or is armed with a deadly weapon and
11 threatens to use the deadly weapon on a family or household member; or

12 (3) commits the crime of domestic assault and has been previously
13 convicted of aggravated domestic assault.

14 (b) ~~A~~ Notwithstanding section 54 of this title, a person who commits the
15 crime of first degree aggravated domestic assault shall be imprisoned not more
16 than 15 years or fined not more than \$25,000.00, or both.

17 (c) Conduct constituting the offense of first degree aggravated domestic
18 assault under this section shall be considered a violent act for the purpose of
19 determining bail.

1 Sec. 12. 13 V.S.A. § 1044 is amended to read:

2 § 1044. SECOND DEGREE AGGRAVATED DOMESTIC ASSAULT

3 (a) A person commits the crime of second degree aggravated domestic
4 assault if the person:

5 (1) Commits the crime of domestic assault and such conduct violates:

6 (A) specific conditions of a criminal court order in effect at the time
7 of the offense imposed to protect that other person;

8 (B) a final abuse prevention order issued under 15 V.S.A. § 1103 or a
9 similar order issued in another jurisdiction;

10 (C) a final order against stalking or sexual assault issued under
11 12 V.S.A. § 5133 or a similar order issued in another jurisdiction; or

12 (D) a final order against abuse of a vulnerable adult issued under
13 33 V.S.A. § 6935 or a similar order issued in another jurisdiction.

14 (2) Commits the crime of domestic assault; and:

15 (A) has a prior conviction within the last 10 years for violating an
16 abuse prevention order issued under section 1030 of this title; or

17 (B) has a prior conviction for domestic assault under section 1042 of
18 this title or a prior conviction in another jurisdiction for an offense that, if
19 committed within the State, would constitute a violation of section 1042 of this
20 title.

21 (3) As used in this subsection:

1 (A) “Issued in another jurisdiction” means issued by a court in any
2 other state; in a federally recognized Indian tribe, territory, or possession of the
3 United States; in the Commonwealth of Puerto Rico; or in the District of
4 Columbia.

5 (B) “Prior conviction in another jurisdiction” means a conviction
6 issued by a court in any other state; in a federally recognized Indian tribe,
7 territory, or possession of the United States; in the Commonwealth of Puerto
8 Rico; or in the District of Columbia.

9 (b) A person who commits the crime of second degree aggravated domestic
10 assault ~~shall be imprisoned not more than five years or fined not more than~~
11 ~~\$10,000.00, or both~~ commits a Class D felony.

12 * * *

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

14 § 1062. STALKING

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

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

19 § 1063. AGGRAVATED STALKING

20 (a) A person commits the crime of aggravated stalking if the person
21 intentionally stalks another person, and:

- 1 (1) such conduct violates a court order that prohibits stalking and is in
2 effect at the time of the offense;
- 3 (2) has been previously convicted of stalking or aggravated stalking;
- 4 (3) has been previously convicted of an offense an element of which
5 involves an act of violence against the same person;
- 6 (4) the person being stalked is under 16 years of age; or
- 7 (5) had a deadly weapon, as defined in section 1021 of this title, in ~~his or~~
8 her the person's possession while engaged in the act of stalking.

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

12 * * *

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

14 § 1201. BURGLARY

15 (a) A person is guilty of burglary if ~~he or she~~ the person enters any building
16 or structure knowing that ~~he or she~~ the person is not licensed or privileged to
17 do so, with the intent to commit a felony, petit larceny, simple assault, or
18 unlawful mischief. This provision shall not apply to a licensed or privileged
19 entry, or to an entry that takes place while the premises are open to the public,
20 unless the person, with the intent to commit a crime specified in this

1 subsection, surreptitiously remains in the building or structure after the license
2 or privilege expires or after the premises no longer are open to the public.

3 (b) As used in this section:

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

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

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

14 (2) A person convicted of burglary and who carries a dangerous or
15 deadly weapon, openly or concealed, shall, in addition to the penalty for the
16 underlying crime, be imprisoned not more than ~~20~~ 5 years ~~or fined not more~~
17 ~~than \$10,000.00, or both.~~

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

19 (A) ~~shall be imprisoned not more than 25 years or fined not more~~
20 ~~than \$1,000.00, or both; or~~

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

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

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

10 § 1204. MAKING OR HAVING BURGLAR'S TOOLS

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

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

19 § 2405. KIDNAPPING

20 * * *

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

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

9 § 2406. UNLAWFUL RESTRAINT IN THE SECOND DEGREE

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

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

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

19 (3) knowingly restrains another person.

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

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

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

8 § 2407. UNLAWFUL RESTRAINT IN THE FIRST DEGREE

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

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

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

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

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

18 § 2451. CUSTODIAL INTERFERENCE

19 (a) A person commits custodial interference by taking, enticing, or keeping
20 a child from the child's lawful custodian, knowingly, without a legal right to

1 do so, when the person is a relative of the child and the child is less than
2 18 years ~~old~~ of age.

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

6 * * *

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

8 § 608. ASSAULT AND ROBBERY

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

13 (b) A person who, being armed with a dangerous weapon, assaults another
14 and robs, steals, or takes from ~~his or her~~ the other person or in ~~his or her~~ the
15 other person's presence money or other property that may be the subject of
16 larceny shall, in addition to the penalty for the underlying crime, be imprisoned
17 for not more than ~~15~~ 5 years nor less than one year.

18 (c) If in the attempt or commission of an offense under subsection (a) or (b)
19 of this section, a person causes bodily injury, ~~such~~ the person shall, in addition
20 to the penalty for the underlying crime, be imprisoned for not more than ~~20~~ 5

1 years nor less than one year. ~~Any penalty imposed under this subsection shall~~
2 ~~be in lieu of any penalty imposed under subsection (a) or (b) of this section.~~

3 Sec. 22. 13 V.S.A. § 2303 is amended to read:

4 § 2303. PENALTIES FOR FIRST AND SECOND DEGREE MURDER

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

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

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

11 (2) ~~The punishment for murder~~ Murder in the second degree shall be
12 ~~imprisonment for:~~

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

15 ~~(B) life without the possibility of parole.~~

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

19 (b) The punishment for murder in the first degree shall be imprisonment for
20 life and for a minimum term of 35 years unless a jury finds that there are
21 aggravating or mitigating factors ~~which~~ that justify a different minimum term.

1 If the jury finds that the aggravating factors outweigh any mitigating factors,
2 the court may set a minimum term longer than 35 years, up to and including
3 life without parole. If the jury finds that the mitigating factors outweigh any
4 aggravating factors, the court may set a minimum term at less than 35 years but
5 not less than 15 years.

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

14 * * *

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

16 § 2304. MANSLAUGHTER- PENALTIES

17 A person who commits manslaughter ~~shall be fined not more than~~
18 ~~\$3,000.00 or imprisoned for not less than one year nor more than 15 years, or~~
19 ~~both~~ commits a Class C felony.

1 Sec. 24. 13 V.S.A. § 1378 is amended to read:

2 § 1378. NEGLECT

3 (a) A caregiver who intentionally or recklessly neglects a vulnerable adult
4 ~~shall be imprisoned not more than 18 months or fined not more than~~
5 ~~\$10,000.00, or both~~ commits a Class A misdemeanor.

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

10 Sec. 25. EFFECTIVE DATE

11 This act shall take effect on July 1, 2022.