

H.475

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, provided that, notwithstanding section 53 of this title,
the person shall not be fined more than \$1,000.00, 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, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$10,000.00.

(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, provided that,
notwithstanding section 53 of this title, the person shall not be fined more than
\$5,000.00.

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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, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$250.00.

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

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

(a)(1) 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~~ the professional's lawful

duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, ~~shall~~:

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

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

(2) Notwithstanding section 53 of this title, a person who violates this subsection shall not be subject to an additional fine beyond that provided in sections 1023 and 1024 of this title.

(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, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$1,000.00.

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

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

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

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

(2) Notwithstanding section 53 of this title, a person who violates this subsection shall not be subject to an additional fine beyond that provided in sections 1023 and 1024 of this title.

(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 A misdemeanor, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$1,000.00.

(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.

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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 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 B misdemeanor and shall, in addition to the penalty for that offense, be imprisoned not more than an additional six months.

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) 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~~ commits a Class C felony and shall, in addition to the penalty for that offense, be imprisoned not more than an additional five years.

(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.

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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.

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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,

provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$1,000.00.

(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 ~~20~~ five 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 five 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~~ the person's 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

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(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, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$50,000.00. It is, however, an affirmative defense ~~which~~ that 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 ~~old~~ 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, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$5,000.00.

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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, provided that, notwithstanding section 53 of this title, the person shall not be fined.

(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~~ five 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~~ five 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. 22. 13 V.S.A. § 2303 is amended to read:

§ 2303. PENALTIES FOR FIRST AND SECOND DEGREE MURDER

(a)(1) ~~The punishment for murder~~ Murder in the first degree shall be a Class A felony punishable by 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.

(2) ~~The punishment for murder~~ Murder in the second degree shall be a Class A felony punishable by 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~~ May 1, 2006.

(b) ~~The punishment for murder~~ Murder in the first degree shall be a Class A felony punishable by imprisonment for life and for a minimum term of 35 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 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~~ Murder in the second degree shall be a Class A felony punishable by 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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(g) Subsections (b)–(f) of this section shall apply only if the murder was committed before ~~the effective date of this act~~ May 1, 2006, and:

(1) the defendant was not sentenced before ~~the effective date of this act~~ May 1, 2006; or

(2) the defendant’s sentence was stricken and remanded for resentencing pursuant to the Vermont Supreme Court’s decision in State v. Provost, 2005 VT 134 ~~(2005)~~.

(h) Notwithstanding section 53 of this title, a person who violates this section shall not be fined.

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 and shall, in addition to the penalty for that offense, be imprisoned not more than an additional five years, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$3,000.00.

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 B misdemeanor and shall, in addition to the penalty for that offense, be imprisoned not more than an additional six months.

(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 C felony and shall, in addition to the penalty for that offense, be imprisoned not more than an additional five years, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$10,000.00.

Sec. 25. 13 V.S.A. § 205 is amended to read:

§ 205. INTERMARRIAGE OF OR FORNICATION BY PERSONS
PROHIBITED TO MARRY

Persons between whom marriages are prohibited by the laws of this State ~~who shall not intermarry or commit fornication with each other shall be imprisoned not more than five years or fined not more than \$1,000.00, or both.~~
A person who violates this section commits a Class D felony, provided that,

notwithstanding section 53 of this title, the person shall not be fined more than \$1,000.00.

Sec. 26. 13 V.S.A. § 1379 is amended to read:

§ 1379. SEXUAL ABUSE

(a) A person who volunteers for or is paid by a caregiving facility or program shall not engage in any sexual activity with a vulnerable adult. It shall be an affirmative defense to a prosecution under this subsection that the sexual activity was consensual between the vulnerable adult and a caregiver who was hired, supervised, and directed by the vulnerable adult. A person who violates this subsection ~~shall be imprisoned for not more than two years or fined not more than \$10,000.00, or both~~ commits a Class A misdemeanor.

(b) No person, whether or not the person has actual knowledge of the victim's vulnerable status, shall engage in sexual activity with a vulnerable adult if:

- (1) the vulnerable adult does not consent to the sexual activity; or
- (2) the person knows or should know that the vulnerable adult is incapable of resisting, declining, or consenting to the sexual activity due to his or her specific vulnerability or due to fear of retribution or hardship.

(c) A person who violates subsection (b) of this section ~~shall be:~~

(1) ~~imprisoned for not more than five years or fined not more than \$10,000.00, or both,~~ commits a Class D felony if the sexual activity involves lewd and lascivious conduct;

(2) ~~imprisoned for not more than 20 years or fined not more than \$10,000.00, or both~~ commits a Class B felony, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$10,000.00, if the sexual activity involves a sexual act.

(d) A caregiver who violates subsection (b) of this section ~~shall be:~~

(1) ~~imprisoned for not more than seven years or fined not more than \$10,000.00, or both~~ commits a Class D felony and shall, in addition to the penalty for that offense, be imprisoned not more than an additional two years, if the sexual activity involves lewd and lascivious conduct.

(2) ~~imprisoned for not more than 25 years or fined not more than \$10,000.00, or both~~ commits a Class B felony and shall, in addition to the penalty for that offense, be imprisoned not more than an additional five years, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$10,000.00, if the sexual activity involves a sexual act.

Sec. 27. 13 V.S.A. § 2601 is amended to read:

§ 2601. LEWD AND LASCIVIOUS CONDUCT

A person guilty of open and gross lewdness and lascivious behavior ~~shall be imprisoned not more than five years or fined not more than \$300.00, or both~~

commits a Class D felony, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$300.00.

Sec. 28. 13 V.S.A. § 2601a is amended to read:

§ 2601a. PROHIBITED CONDUCT

(a) No person shall engage in open and gross lewdness.

(b) A person who violates this section ~~shall:~~

(1) ~~be imprisoned not more than one year or fined not more than \$300.00, or both~~ commits a Class B misdemeanor, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$300.00, for a first offense; and

(2) ~~be imprisoned not more than two years or fined not more than \$1,000.00, or both~~ commits a Class A misdemeanor, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$1,000.00, for a second or subsequent offense.

Sec. 29. 13 V.S.A. § 2602 is amended to read:

§ 2602. LEWD OR LASCIVIOUS CONDUCT WITH CHILD

(a)(1) No person shall willfully and lewdly commit any lewd or lascivious act upon or with the body, or any part or member thereof, of a child under the age of 16 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of such person or of such child.

(2) This section shall not apply if the person is less than 19 years old, the child is at least 15 years old, and the conduct is consensual.

(b) A person who violates subsection (a) of this section ~~shall be~~:

(1) For a first offense, ~~imprisoned not less than two years and not more than 15 years, and, in addition, may be fined not more than \$5,000.00, or both~~ commits a Class C felony provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$5,000.00 and shall:

(A) in addition to the penalty for that offense, be imprisoned not more than an additional five years; and

(B) be imprisoned not less than two years.

(2) For a second offense, ~~imprisoned not less than five years and a maximum term of life, and, in addition, may be fined not more than \$25,000.00, or both~~ commits a Class A felony, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$25,000.00 and shall be imprisoned not less than five years.

(3) For a third or subsequent offense, ~~imprisoned not less than 10 years and a maximum term of life, and, in addition, may be fined not more than \$25,000.00, or both~~ commits a Class A felony, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$25,000.00 and shall be imprisoned not less than 10 years.

(c)(1) Except as provided in subdivision (2) of this subsection, a sentence ordered pursuant to subdivision (b)(2) of this section shall include at least a five-year term of imprisonment and a sentence ordered pursuant to subdivision (b)(3) of this section shall include at least a 10-year term of imprisonment. The five-year and 10-year terms of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year or 10-year term of imprisonment.

(2) The court may depart downwardly from the five-year and 10-year terms of imprisonment required by subdivisions (b)(2) and (3) of this section and impose a lesser term of incarceration if the court makes written findings on the record that the downward departure will serve the interests of justice and public safety.

(d) A person convicted of violating subdivision (b)(2) or (3) of this section shall be sentenced under section 3271 of this title.

* * *

Sec. 30. 13 V.S.A. § 2605 is amended to read:

§ 2605. VOYEURISM

* * *

(b) No person shall intentionally view, photograph, film, or record in any format:

(1) the intimate areas of another person without that person's knowledge and consent while the person being viewed, photographed, filmed, or recorded is in a place where he or she would have a reasonable expectation of privacy;
or

(2) the intimate areas of another person without that person's knowledge and consent and under circumstances in which the person has a reasonable expectation of privacy.

(c) No person shall display or disclose to a third party any image recorded in violation of subsection (b), (d), or (e) of this section.

(d) No person shall intentionally conduct surveillance or intentionally photograph, film, or record in any format a person without that person's knowledge and consent while the person being surveilled, photographed, filmed, or recorded is in a place where he or she would have a reasonable expectation of privacy within a home or residence. Bona fide private investigators and bona fide security guards engaged in otherwise lawful activities within the scope of their employment are exempt from this subsection.

(e) No person shall intentionally photograph, film, or record in any format a person without that person's knowledge and consent while that person is in a

place where a person has a reasonable expectation of privacy and that person is engaged in sexual conduct.

* * *

(j) For a first offense, ~~a person who violates subsection (b), (d), or (e) of this section shall be imprisoned not more than two years or fined not more than \$1,000.00, or both~~ commits a Class A misdemeanor, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$1,000.00. For a second or subsequent offense, a person who violates subsection (b), (d), or (e) of this section ~~shall be imprisoned not more than three years or fined not more than \$5,000.00, or both~~ commits a Class E felony, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$5,000.00. A person who violates subsection (c) of this section ~~shall be imprisoned not more than five years or fined not more than \$5,000.00, or both~~ commits a Class D felony, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$5,000.00.

Sec. 31. 13 V.S.A. § 2606 is amended to read:

§ 2606. DISCLOSURE OF SEXUALLY EXPLICIT IMAGES WITHOUT
CONSENT

* * *

(b)(1) A person violates this section if he or she knowingly discloses a visual image of an identifiable person who is nude or who is engaged in sexual

conduct, without his or her consent, with the intent to harm, harass, intimidate, threaten, or coerce the person depicted, and the disclosure would cause a reasonable person to suffer harm. A person may be identifiable from the image itself or information offered in connection with the image. Consent to recording of the visual image does not, by itself, constitute consent for disclosure of the image. A person who violates this subdivision (1) ~~shall be imprisoned not more than two years or fined not more than \$2,000.00, or both~~ commits a Class A misdemeanor, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$2,000.00.

(2) A person who violates subdivision (1) of this subsection with the intent of disclosing the image for financial profit ~~shall be imprisoned not more than five years or fined not more than \$10,000.00, or both~~ commits a Class D felony.

* * *

Sec. 32. 13 V.S.A. § 2632 is amended to read:

§ 2632. PROSTITUTION

(a) A person shall not:

(1) occupy a place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation;

(2) knowingly permit a place, structure, building, or conveyance owned by the person or under the person's control to be used for the purpose of prostitution, lewdness, or assignation;

(3) receive or offer, or agree to receive, a person into a place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation;

(4) permit a person to remain in a place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation;

(5) direct, take or transport, or offer or agree to take or transport a person to a place, structure, building, or conveyance or to any other person knowingly, or with reasonable cause to know that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation;

(6) procure or solicit or offer to procure or solicit a person for the purpose of prostitution, lewdness, or assignation;

(7) reside in, enter or remain in a place, structure, or building or enter or remain in a conveyance for the purpose of prostitution, lewdness, or assignation;

(8) engage in prostitution, lewdness, or assignation; or

(9) aid or abet prostitution, lewdness, or assignation, by any means whatsoever.

(b) A person who violates a provision of subsection (a) of this section ~~shall be fined not more than \$100.00 or may be imprisoned not more than one year~~ commits a Class B misdemeanor. For a second offense, such person ~~shall be imprisoned for not more than three years~~ commits a Class A misdemeanor. Notwithstanding section 53 of this title, a person who violates this section shall not be fined more than \$100.00.

Sec. 33. 13 V.S.A. § 2635 is amended to read:

§ 2635. SLAVE TRAFFIC

(a) A person shall not:

(1) induce, entice, or procure a person to come into the State or to go from the State for the purpose of prostitution or for any immoral purpose or to enter a house of prostitution in the State;

(2) willfully or knowingly aid such person in obtaining transportation to or within the State for such purposes;

(3) place a person in the charge or custody of another person for immoral purposes or in a house of prostitution;

(4) induce, entice, procure, or compel such person to reside in a house of prostitution; or

(5) induce, entice, procure, or compel such person to live a life of prostitution.

(b) A person ~~violating a provision hereof shall be imprisoned not more than 10 years nor less than one year or fined not more than \$2,000.00 nor less than \$200.00, or both~~ who violates this section commits a Class C felony and shall be imprisoned not less than one year, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$2,000.00 or less than \$200.00.

Sec. 34. 13 V.S.A. § 2636 is amended to read:

§ 2636. UNLAWFUL PROCUREMENT

(a) A person shall not:

(1) induce, entice, procure, or compel a person, for the purpose of prostitution or for any other immoral purposes, to enter a house of prostitution;

(2) receive money or other valuable consideration for or on account of placing a person in a house of prostitution;

(3) pay money or other valuable consideration to procure a person for the purpose of placing such person for immoral purposes in a house of prostitution, with or without the person's consent; or

(4) knowingly receive money or other valuable thing for or on account of procuring or placing a person in a house of prostitution for immoral purposes, with or without the person's consent.

(b) A person ~~violating a provision hereof shall be punished as provided in section 2635 of this title~~ who violates this section commits a Class C felony,

provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$2,000.00 or less than \$200.00.

Sec. 35. 13 V.S.A. § 2637 is amended to read:

§ 2637. APPROPRIATING OR LEVYING UPON EARNINGS OF
PROSTITUTE

(a) A person shall not:

(1) hold, detain, or restrain a person in a house of prostitution for the purpose of compelling such person, directly or indirectly, by the person's voluntary or involuntary service or labor, to pay, liquidate, or cancel a debt, dues, or obligations incurred or claimed to have been incurred in such house of prostitution; or

(2) accept, receive, levy, or appropriate money or other valuable thing from the proceeds or earnings of a person engaged in prostitution.

(b) An acceptance, receipt, levy, or appropriation of such money or valuable thing shall be presumptive evidence of lack of consideration.

(c) A person who violates a provision of this section ~~shall be punished as provided in section 2635 of this title~~ commits a Class C felony, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$2,000.00 or less than \$200.00.

Sec. 36. 13 V.S.A. § 2652 is amended to read:

§ 2652. HUMAN TRAFFICKING

(a) No person shall knowingly:

(1) recruit, entice, harbor, transport, provide, or obtain by any means a person under ~~the age of 18~~ years of age for the purpose of having the person engage in a commercial sex act;

(2) recruit, entice, harbor, transport, provide, or obtain a person through force, fraud, or coercion for the purpose of having the person engage in a commercial sex act;

(3) compel a person through force, fraud, or coercion to engage in a commercial sex act;

(4) benefit financially or by receiving anything of value from participation in a venture, knowing that force, fraud, or coercion was or will be used to compel any person to engage in a commercial sex act as part of the venture;

(5) subject a person to labor servitude;

(6) recruit, entice, harbor, transport, provide, or obtain a person for the purpose of subjecting the person to labor servitude; or

(7) benefit financially or by receiving anything of value from participation in a venture, knowing that a person will be subject to labor servitude as part of the venture.

(b) A person who violates subsection (a) of this section ~~shall be imprisoned for a term up to and including life or fined not more than \$500,000.00, or both~~ commits a Class A felony.

* * *

Sec. 37. 13 V.S.A. § 2653 is amended to read:

§ 2653. AGGRAVATED HUMAN TRAFFICKING

(a) A person commits the crime of aggravated human trafficking if the person commits human trafficking in violation of section 2652 of this title under any of the following circumstances:

(1) the offense involves a victim of human trafficking who is a child ~~under the age of 18 years of age;~~

(2) the person has previously been convicted of a violation of section 2652 of this title;

(3) the victim of human trafficking suffers serious bodily injury or death; or

(4) the actor commits the crime of human trafficking under circumstances that constitute the crime of sexual assault as defined in section 3252 of this title, aggravated sexual assault as defined in section 3253 of this title, or aggravated sexual assault of a child as defined in section 3253a of this title.

(b) A person who violates this section ~~shall be imprisoned not less than 20 years and a maximum term of life or fined not more than \$100,000.00, or both~~ commits a Class A felony and shall be imprisoned not less than 20 years.

(c) The provisions of this section do not limit or restrict the prosecution for murder or manslaughter.

Sec. 38. 13 V.S.A. § 2654 is amended to read:

§ 2654. PATRONIZING OR FACILITATING HUMAN TRAFFICKING

(a) No person shall knowingly:

(1) permit a place, structure, or building owned by the person or under the person's control to be used for the purpose of human trafficking;

(2) receive or offer or agree to receive or offer a person into a place, structure, or building for the purpose of human trafficking; or

(3) permit a person to remain in a place, structure, building, or conveyance for the purpose of human trafficking.

(b) A person who violates this section ~~shall be imprisoned not more than five years or fined not more than \$100,000.00, or both~~ commits a Class D felony.

Sec. 39. 13 V.S.A. § 2655 is amended to read:

§ 2655. SOLICITATION

(a) No person shall knowingly solicit a commercial sex act from a victim of human trafficking.

(b) A person who violates this section ~~shall be imprisoned not more than five years or fined not more than \$100,000.00, or both~~ commits a Class D felony.

Sec. 40. 13 V.S.A. § 2802b is amended to read:

§ 2802b. MINOR ELECTRONICALLY DISSEMINATING INDECENT
MATERIAL TO ANOTHER PERSON

(a)(1) No minor shall knowingly and voluntarily and without threat or coercion use a computer or electronic communication device to transmit an indecent visual depiction of ~~himself or herself~~ themselves to another person.

(2) No person shall possess a visual depiction transmitted to the person in violation of subdivision (1) of this subsection. It shall not be a violation of this subdivision if the person took reasonable steps, whether successful or not, to destroy or eliminate the visual depiction.

(b) Penalties; minors.

(1) Except as provided in subdivision (3) of this subsection, a minor who violates subsection (a) of this section shall be adjudicated delinquent. An action brought under this subdivision (1) shall be filed in family court and treated as a juvenile proceeding pursuant to 33 V.S.A. chapter 52, and may be referred to the juvenile diversion program of the district in which the action is filed.

(2) A minor who violates subsection (a) of this section and who has not previously been adjudicated in violation of that section shall not be prosecuted under chapter 64 of this title (sexual exploitation of children), and shall not be subject to the requirements of chapter 167, subchapter 3 of this title (sex offender registration).

(3) A minor who violates subsection (a) of this section who has previously been adjudicated in violation of that section may be adjudicated in ~~family court as~~ the Family Division under subdivision (b)(1) of this section or prosecuted for a Class C misdemeanor in ~~district court~~ the Criminal Division under chapter 64 of this title (sexual exploitation of children), but shall not be subject to the requirements of chapter 167, subchapter 3 of this title (sex offender registration), provided that, notwithstanding section 53 of this title, the minor shall not be fined.

(4) Notwithstanding any other provision of law, the records of a minor who is adjudicated delinquent under this section shall be expunged when the minor reaches 18 years of age.

(c) Penalties; adults. A person 18 years of age or older who violates subdivision (a)(2) of this section ~~shall be fined not more than \$300.00 or imprisoned for not more than six months, or both~~ commits a Class C misdemeanor, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$300.00.

* * *

Sec. 41. 13 V.S.A. § 2807 is amended to read:

§ 2807. PENALTY

A person who violates any provision of section 2802, 2802a, 2803, 2804, 2804a, or 2804b of this title ~~shall be imprisoned not more than one year or fined not more than \$1,000.00, or both~~ commits a Class B misdemeanor, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$1,000.00.

Sec. 42. 13 V.S.A. § 2825 is amended to read:

§ 2825. PENALTIES

(a) A person who violates section 2822, 2823, or 2824 of this title ~~shall be imprisoned not more than 10 years or fined not more than \$20,000.00, or both~~ commits a Class C felony, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$20,000.00.

(b) Upon conviction for a violation of section 2822, 2823, or 2824 of this title of a person who has earlier been convicted under any of those sections, the person shall be ~~imprisoned not less than one year nor more than 15 years or fined not more than \$50,000.00, or both~~ punished for a Class C felony and shall:

(1) in addition to the penalty for that offense, be imprisoned not more than an additional five years; and

(2) be imprisoned not less than one year.

(c) A person who violates section 2827 this title by possessing or accessing with intent to view a photograph, film, or visual depiction, including a depiction stored electronically, ~~which~~ that constitutes:

(1) a clearly lewd exhibition of a child's genitals or anus, other than a depiction of sexual conduct by a child, ~~shall be imprisoned not more than two years or fined not more than \$5,000.00, or both~~ commits a Class A misdemeanor;

(2) sexual conduct by, with, or on a child, ~~shall be imprisoned not more than five years or fined not more than \$10,000.00, or both~~ commits a Class D felony.

(d) A person who violates section 2827 of this title after being convicted of a previous violation of the same section ~~shall be imprisoned not more than 10 years or fined not more than \$50,000.00, or both~~ commits a Class C felony.

(e) A person who violates section 2828 of this title ~~shall be imprisoned not more than five years or fined not more than \$10,000.00, or both~~ commits a Class D felony.

Sec. 43. 13 V.S.A. § 3252 is amended to read:

§ 3252. SEXUAL ASSAULT

* * *

(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~~ commits a Class A felony, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$25,000.00 and shall be imprisoned not less than three years.

(2) A person who violates subsection (c) of this section ~~shall be imprisoned for not more than 20 years, and, in addition, may be fined not more than \$10,000.00~~ commits a Class B felony, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$10,000.00.

* * *

Sec. 44. 13 V.S.A. § 3253 is amended to read:

§ 3253. AGGRAVATED SEXUAL ASSAULT

(a) A person commits the crime of aggravated sexual assault if the person commits sexual assault under any one of the following circumstances:

(1) At the time of the sexual assault, the actor causes serious bodily injury to the victim or to another.

(2) The actor is joined or assisted by one or more persons in physically restraining, assaulting, or sexually assaulting the victim.

(3) The actor commits the sexual act under circumstances ~~which~~ that constitute the crime of kidnapping.

(4) The actor has previously been convicted in this State of sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault or has been convicted in any jurisdiction in the United States or territories of an offense ~~which~~ that would constitute sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault if committed in this State.

(5) At the time of the sexual assault, the actor is armed with a deadly weapon and uses or threatens to use the deadly weapon on the victim or on another.

(6) At the time of the sexual assault, the actor threatens to cause imminent serious bodily injury to the victim or to another and the victim reasonably believes that the actor has the present ability to carry out the threat.

(7) At the time of the sexual assault, the actor applies deadly force to the victim.

(8) The victim is under ~~the age of~~ 13 years of age and the actor is at least 18 years of age.

(9) The victim is subjected by the actor to repeated nonconsensual sexual acts as part of the same occurrence, or the victim is subjected to repeated nonconsensual sexual acts as part of the actor's common scheme and plan.

(b) A person who commits the crime of aggravated sexual assault ~~shall be imprisoned not less than ten years and a maximum term of life, and, in~~

addition, may be fined not more than \$50,000.00 commits a Class A felony, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$50,000.00, and shall be imprisoned not less than 10 years.

(c)(1) Except as provided in subdivision (2) of this subsection, a sentence ordered pursuant to subsection (b) of this section shall include at least a ten-year term of imprisonment. The ten-year term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year or ten-year term of imprisonment.

(2) The court may depart downwardly from the ten-year term of imprisonment required by subsection (b) of this section and impose a lesser term of incarceration if the court makes written findings on the record that the downward departure will serve the interests of justice and public safety, provided that in no event may the court impose a term of incarceration of less than five years.

* * *

Sec. 45. 13 V.S.A. § 3253a is amended to read:

§ 3253a. AGGRAVATED SEXUAL ASSAULT OF A CHILD

(a) A person commits the crime of aggravated sexual assault of a child if the actor is at least 18 years of age and commits sexual assault against a child

under ~~the age of~~ 16 years of age in violation of section 3252 of this title and at least one of the following circumstances exists:

- (1) At the time of the sexual assault, the actor causes serious bodily injury to the victim or to another.
- (2) The actor is joined or assisted by one or more persons in physically restraining, assaulting, or sexually assaulting the victim.
- (3) The actor commits the sexual act under circumstances ~~which~~ that constitute the crime of kidnapping.
- (4) The actor has previously been convicted in this State of sexual assault under subsection 3252(a) or (b) of this title, aggravated sexual assault under section 3253 of this title, or aggravated sexual assault of a child under this section, or has been convicted in any jurisdiction in the United States or territories of an offense ~~which~~ that would constitute sexual assault under subsection 3252(a) or (b) of this title, aggravated sexual assault under section 3253 of this title, or aggravated sexual assault of a child under this section if committed in this State.
- (5) At the time of the sexual assault, the actor is armed with a deadly weapon and uses or threatens to use the deadly weapon on the victim or on another.

(6) At the time of the sexual assault, the actor threatens to cause imminent serious bodily injury to the victim or to another, and the victim reasonably believes that the actor has the present ability to carry out the threat.

(7) At the time of the sexual assault, the actor applies deadly force to the victim.

(8) The victim is subjected by the actor to repeated nonconsensual sexual acts as part of the same occurrence, or the victim is subjected to repeated nonconsensual sexual acts as part of the actor's common scheme and plan.

(b) A person who commits the crime of aggravated sexual assault of a child ~~shall be imprisoned for not less than 25 years with a maximum term of life, and, in addition, may be fined not more than \$50,000.00~~ commits a Class A felony, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$50,000.00. A sentence ordered pursuant to subsection (b) of this section shall include at least a 25-year term of imprisonment. The 25-year term of imprisonment required by this subsection shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the 25-year term of imprisonment.

Sec. 46. 13 V.S.A. § 3257 is amended to read:

§ 3257. SEXUAL EXPLOITATION OF A PERSON UNDER THE
SUPERVISION OF THE DEPARTMENT OF CORRECTIONS

(a) A correctional employee, contractor, or other person providing services to offenders on behalf of the Department of Corrections or pursuant to a court order or in accordance with a condition of parole, probation, supervised community sentence, or furlough shall not engage in a sexual act with:

(1) a person who the employee, contractor, or other person providing services knows is confined to a correctional facility; or

(2) any offender being supervised by the Department of Corrections while on parole, probation, supervised community sentence, or furlough, where the employee, contractor, or other service provider knows or reasonably should have known that the offender is being supervised by the Department, unless the offender and the employee, contractor, or person providing services were married, parties to a civil union, or engaged in a consensual sexual relationship at the time of sentencing for the offense for which the offender is being supervised by the Department.

(b) A person who violates subsection (a) of this section ~~shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both~~ commits a Class D felony.

Sec. 47. 13 V.S.A. § 3258 is amended to read:

§ 3258. SEXUAL EXPLOITATION OF A MINOR

(a) No person shall engage in a sexual act with a minor if:

(1) the actor is at least 48 months older than the minor; and

(2) the actor is in a position of power, authority, or supervision over the minor by virtue of the actor's undertaking the responsibility, professionally or voluntarily, to provide for the health or welfare of minors, or guidance, leadership, instruction, or organized recreational activities for minors.

(b) A person who violates subsection (a) of this section ~~shall be imprisoned for not more than one year or fined not more than \$2,000.00, or both~~ commits a Class B misdemeanor, provided that, notwithstanding section 53 of this title, the person shall not be fined more than \$2,000.00.

(c) A person who violates subsection (a) of this section and who abuses ~~his or her~~ the person's position of power, authority, or supervision over the minor in order to engage in a sexual act ~~shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both~~ commits a Class D felony.

Sec. 48. 13 V.S.A. § 3259 is amended to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF
A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or

who the officer knows is being detained, arrested, or otherwise held in custody by another law enforcement officer.

(b) A person who violates subsection (a) of this section ~~shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both~~ commits a Class D felony.

Sec. 49. EFFECTIVE DATE

This act shall take effect on July 1, 2023.