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H.562

Introduced by Representatives Rachelson of Burlington, Bluemle of Burlington, Cordes of Lincoln, Donahue of Northfield, Donnally of Hyde Park, Kornheiser of Brattleboro, Masland of Thetford, Mulvaney-Stanak of Burlington, Notte of Rutland City, Stebbins of Burlington, Vyhovsky of Essex, and Whitman of Bennington

Referred to Committee on

Date:

Subject: Sexual assault; nonconsensual removal of or tampering with a sexually protective device

Statement of purpose of bill as introduced: This bill proposes to prohibit the nonconsensual removal or tampering of a sexually protective device, establishing the offense as a criminal misdemeanor and an offense for which the victim may bring an action against the perpetrator in the Civil Division of the Superior Court to recover damages.

An act relating to nonconsensual removal of or tampering with a sexually protective device

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

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

1 § 3251. DEFINITIONS

2 As used in this chapter:

3 (1) A “sexual act” means conduct between persons consisting of contact
4 between the penis and the vulva, the penis and the anus, the mouth and the
5 penis, the mouth and the vulva, or any intrusion, however slight, by any part of
6 a person’s body or any object into the genital or anal opening of another.

7 (2) “Sexual conduct” means any conduct or behavior relating to sexual
8 activities of the complaining witness, including ~~but not limited to~~ prior
9 experience of sexual acts, use of contraceptives, living arrangement, and mode
10 of living.

11 (3) “Consent” means the affirmative, unambiguous, and voluntary
12 agreement to engage in a sexual act, which can be revoked at any time.

13 * * *

14 (12) “Sexually protective device” means any one of the following
15 intended to prevent pregnancy or sexually transmitted infection: male or
16 female condom, spermicide, diaphragm, cervical cap, contraceptive sponge,
17 dental dam, or another physical device.

1 Sec. 2. 13 V.S.A. § 3260 is added to read:

2 § 3260. NONCONSENSUAL REMOVAL OR TAMPERING WITH A
3 SEXUALLY PROTECTIVE DEVICE

4 (a) No person shall engage in a sexual act with another person that was
5 mutually agreed upon by the parties involved with the explicit understanding
6 and knowledge that a sexually protective device would be used and do any of
7 the following:

8 (1) intentionally and without consent remove or tamper with such
9 sexually protective device during sexual intercourse, an oral sexual act, or an
10 anal sexual act in a manner likely to render such device ineffective for its
11 common purpose;

12 (2) intentionally and without consent use a sexually protective device
13 during sexual intercourse, oral sexual conduct, or anal sexual conduct that the
14 person knows has been tampered with in a manner likely to render such device
15 ineffective for its common purpose; or

16 (3) intentionally mislead the other person into believing that a sexually
17 protective device is being used during sexual intercourse, oral sexual conduct,
18 or anal sexual conduct, and such sexually protective device is known by such
19 other person to be either not used or inoperable.

20 (b) A person who violates subsection (a) of this section shall be imprisoned
21 not more than two years or fined not more than \$2,000.00, or both.

1 (c) A person harmed by a violation of subsection (a) of this section may
2 bring an action in the Civil Division of the Superior Court for compensatory
3 damages, punitive damages, and reasonable costs and attorney's fees.

4 Sec. 3. EFFECTIVE DATE

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