

# House Calendar

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Thursday, February 4, 2021

30th DAY OF THE BIENNIAL SESSION

House Convenes at 1:15 PM

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**ACTION CALENDAR**

**Favorable with Amendment**

**H. 18**

An act relating to sexual exploitation of children

**Rep. Burditt of West Rutland**, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2821 is amended to read:

§ 2821. DEFINITIONS

As used in this chapter:

(1) “Child” means any person under 16 years of age.

(2) “Sexual conduct” means any of the following:

(A) any conduct involving contact between the penis and the vulva, the penis and the penis, the penis and the anus, the mouth and the penis, the mouth and the anus, the vulva and the vulva, or the mouth and the vulva;

(B) any intrusion, however slight, by any part of a person’s body or any object into the genital or anal opening of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(C) any intentional touching, not through the clothing, of the genitals, anus, or breasts of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(D) masturbation;

(E) bestiality; ~~or~~

(F) sadomasochistic abuse for sexual purposes; or

(G) any simulation of the conduct described in subdivisions (2)(A)–(F) of this section.

\* \* \*

(7)(A) “Simulation” means the explicit depiction of any conduct described in subdivisions (2)(A)–(F) of this section that:

(i) involves a child as defined in subdivision (1) of this section;

(ii) creates the appearance of such conduct; and

(iii) exhibits naked genitals, buttocks, or breasts below the top of the areola.

(B) “Simulation” does not include paintings, drawings, or nonvisual or written descriptions of sexual conduct.

(C) “Simulation” applies to conduct, not to a simulated child.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

**( Committee Vote: 11-0-0)**

## NOTICE CALENDAR

### Favorable with Amendment

#### H. 20

An act relating to pretrial risk assessments and pretrial services

**Rep. Donnally of Hyde Park**, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7554c is amended to read:

#### § 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

~~(a)(1) The objective of a pretrial risk assessment is to provide information to the court for the purpose of determining whether a person presents a risk of nonappearance or a risk of re-offense so the court can make an appropriate order concerning bail and conditions of pretrial release. The assessment shall not assess victim safety or risk of lethality in domestic assaults.~~

(2) The objective of a pretrial needs screening is to obtain a preliminary indication of whether a person has a substantial substance abuse or mental health issue that would warrant a subsequent court order for a more detailed clinical assessment.

~~(3)(2) Participation in a risk assessment or needs screening pursuant to this section does not create any entitlement for the assessed or screened person.~~

(b)(1) Except as provided in subdivision (2) of this subsection, a judge may request that a pretrial services coordinator perform a risk assessment that assesses risk of flight for a person who is arrested, lodged, and unable to post bail within 24 hours of lodging shall be offered a risk assessment and, if

~~deemed appropriate by the pretrial services coordinator, a needs screening prior to arraignment.~~

(2) A person charged with an offense for which registration as a sex offender is required pursuant to chapter 167, subchapter 3 of this title or an offense punishable by a term of life imprisonment shall not be eligible under this section.

(3) Participation in risk assessment or needs screening shall be voluntary and a person's refusal to participate shall not result in any criminal legal liability to the person.

(4) In the event ~~an assessment or a~~ screening cannot be obtained prior to arraignment, the ~~risk assessment and~~ needs screening shall be conducted as soon as practicable.

(5) A person who qualifies pursuant to subdivision (1) of this subsection and who has an additional pending charge or a violation of probation shall not be excluded from being offered a ~~risk assessment or~~ needs screening unless the other charge is a listed crime.

(6) Any person charged with a criminal offense ~~or~~ a person who is the subject of a youthful offender petition pursuant to 33 V.S.A. § 5280, or a person 18 years of age or older who is the subject of a delinquency petition pursuant to 33 V.S.A. § 5201, except those persons identified in subdivision (2) of this subsection, may choose to engage with a pretrial services coordinator.

(c) The results of the risk assessment and needs screening shall be provided to the person and his or her attorney, the prosecutor, and the court. Pretrial services coordinators may share information only within the limitations of subsection (e) of this section.

(d)(1) At arraignment, the court may order a person who is eligible to engage with a pretrial services coordinator under subdivision (b)(6) of this section to do the following:

(A) meet with a pretrial services coordinator on a schedule set by the court;

(B) participate in a needs screening with a pretrial services coordinator; and

(C) participate in a clinical assessment by a substance abuse or mental health treatment provider and follow the recommendations of the provider.

(2) The court may order the person to engage in pretrial services. Pretrial services may include the pretrial services coordinator:

(A) supporting the person in meeting conditions of release imposed by the court, including the condition to appear for judicial proceedings; and

(B) connecting the person with community-based treatment programs, rehabilitative services, recovery supports, and restorative justice programs.

(3) If possible, the court shall set the date and time for the clinical assessment at arraignment. In the alternative, the pretrial services coordinator shall coordinate the date, time, and location of the clinical assessment and advise the court, the person and his or her attorney, and the prosecutor.

(4) An order authorized in subdivision (1) or (2) of this subsection shall be in addition to any conditions of release permitted by law and shall not limit the court in any way. Failure to comply with a court order authorized by subdivision (1) or (2) of this subsection shall not constitute a violation of section 7559 of this title.

(5) This section shall not be construed to limit a court's authority to impose conditions pursuant to section 7554 of this title.

\* \* \*

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

( Committee Vote: 11-0-0)

### Information Notice

#### Notice of JFO Grants and Positions

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3):

**JFO #3029** - \$250,000 to the VT. Agency of Agriculture, Food and Markets from the USDA Natural Resource Conservation Service. One (1) limited service position, Agriculture Water Quality Program Coordinator III, and \$100,000 for a software upgrade and associated costs. [NOTE: The grant application reflects State in-kind matching dollars for a total budget of \$500,000.] [*JFO received 1/7/2021*]

**JFO #3030** - \$450,000 to the VT Department of Disabilities, Aging and Independent Living from the Kessler Foundation. Funds will be used to

support the expansion or re-designation of current positions in the Department and to create three (3) limited service positions to assist Social Security Disability Insurance and Supplemental Security Income beneficiaries to transition to self-sustaining employment. The request includes one (1) Vocational Rehabilitation Benefits Counselor and two (2) Vocational Rehabilitation Counselor II to complete the work. [NOTE: Kessler grant funds will support 70% of the VR Benefit Counselor position and 21% of the VR Counselor II positions. The remaining balance will be covered by VR federal funds.] *[JFO received 1/25/2021]*

**JFO #3031** - \$450,000 to the Department of Public Safety from the Office of Justice Programs for the services and support for victims in the immediate aftermath and during the investigation of a crime. The grant will fully fund one (1) limited-service position, Victim Services Specialist, to provide these services through 9/30/2023 and will also cover \$15,417 in indirect departmental costs. *[JFO received 1/25/2021]*

**JFO #3032** - \$206,394 to the VT Dept. of Environmental Conservation from the United States Climate Alliance, United Nations Fund, for one (1) limited service position, Environmental Analyst VII, to serve in a leadership role in advancing Vermont's climate mitigation priorities. Position to be funded through 9/30/22. *[JFO received 1/25/2021]*

**JFO #3033** - One (1) limited service position, Criminal Intelligence Analyst, to the VT. Dept of Public Safety to support information sharing and analysis to prevent and prepare for hazards and threats. Funds from the US Dept. of Homeland Security from previously awarded JFO Grant #2212. *[JFO received 1/27/2021]*