

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing, and Military Affairs to which was
3 referred House Bill No. 329 entitled “An act relating to amending the
4 prohibitions against discrimination” respectfully reports that it has considered
5 the same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 21 V.S.A. § 495 is amended to read:

8 § 495. UNLAWFUL EMPLOYMENT PRACTICE

9 (a) It shall be unlawful employment practice, except where a bona fide
10 occupational qualification requires persons of a particular race, color, religion,
11 national origin, sex, sexual orientation, gender identity, ancestry, place of birth,
12 age, crime victim status, or physical or mental condition:

13 (1) For any employer, employment agency, or labor organization to
14 harass or discriminate against any individual because of race, color, religion,
15 ancestry, national origin, sex, sexual orientation, gender identity, place of birth,
16 crime victim status, or age or against a qualified individual with a disability;

17 * * *

18 (3) For any employment agency to fail or refuse to classify properly or
19 refer for employment or to otherwise harass or discriminate against any
20 individual because of race, color, religion, ancestry, national origin, sex, sexual

1 orientation, gender identity, place of birth, crime victim status, or age or
2 against a qualified individual with a disability;

3 (4) For any labor organization, because of race, color, religion, ancestry,
4 national origin, sex, sexual orientation, gender identity, place of birth, crime
5 victim status, or age to harass or discriminate against any individual or against
6 a qualified individual with a disability or to limit, segregate, or qualify its
7 membership;

8 * * *

9 (8) ~~Retaliation prohibited.~~ An employer, employment agency, or labor
10 organization shall not discharge or in any other manner harass or discriminate
11 against any employee because the employee:

12 * * *

13 (i) An employee shall not be required to demonstrate the existence of
14 another employee or individual to whom the employee's treatment can be
15 compared in determining whether a violation of the provisions of this section
16 occurred.

17 (j) Notwithstanding any State or federal judicial precedent to the contrary:

18 (1) the provisions of this section shall be construed liberally to
19 accomplish its remedial purposes and any exceptions and exemptions to the
20 provisions of this section shall be construed narrowly in order to maximize the
21 deterrence of discriminatory behavior; and

1 (16) “Harass” means to engage in unwelcome conduct based on an
2 employee’s race, color, religion, national origin, sex, sexual orientation, gender
3 identity, ancestry, place of birth, age, crime victim status, or physical or mental
4 condition that interferes with the employee’s work or creates a work
5 environment that is intimidating, hostile, or offensive. In determining whether
6 conduct constitutes harassment:

7 (A) The determination shall be made on the basis of the record as a
8 whole, according to the totality of the circumstances, and a single incident may
9 constitute unlawful harassment.

10 (B) Incidents that may be harassment shall be considered in the
11 aggregate with varying types of conduct and conduct based on multiple
12 characteristics viewed in totality, rather than in isolation.

13 (C) Conduct may constitute harassment, regardless of whether:

14 (i) the complaining employee is the individual being harassed;

15 (ii) the complaining employee acquiesced or otherwise submitted
16 to or participated in the conduct;

17 (iii) the conduct is also experienced by others outside the
18 protected class involved in the conduct;

19 (iv) the complaining employee was able to continue carrying out
20 the employee’s job duties and responsibilities despite the conduct;

21 (v) the conduct resulted in a physical or psychological injury; or

1 (vi) the conduct occurred outside the workplace.

2 Sec. 3. 9 V.S.A. § 4500 is amended to read:

3 § 4500. **LEGISLATIVE INTENT**

4 **(a)** The provisions of this chapter establishing legal standards, duties, and
5 requirements with respect to persons with disabilities in places of public
6 accommodation as defined in this chapter, except those provisions relating to
7 remedies, are intended to implement and to be construed so as to be consistent
8 with the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. and
9 regulations promulgated under that ~~act~~ Act, and are not intended to impose
10 additional or higher standards, duties, or requirements than that ~~act~~ Act.

11 **(b)** Subsections 4502(b) and (c) of this title shall not be construed to create
12 or impose on governmental entities additional or higher standards, duties, or
13 requirements than that imposed by Title II of the Americans with Disabilities
14 Act.

15 **(c)** Notwithstanding any State or federal judicial precedent to the contrary,
16 the provisions of this chapter shall be construed liberally to accomplish its
17 remedial purposes and any exceptions and exemptions to the provisions of this
18 chapter shall be construed narrowly in order to maximize the deterrence of
19 discriminatory behavior.

1 Sec. 4. 9 V.S.A. § 4501 is amended to read:

2 § 4501. DEFINITIONS

3 As used in this chapter:

4 * * *

5 (12) “Harass” means to engage in unwelcome conduct based on a
6 person’s race, color, religion, national origin, sex, sexual orientation, gender
7 identity, ancestry, place of birth, age, crime victim status, or physical or mental
8 condition that detracts from, undermines, or interferes with the person’s terms,
9 conditions, privileges, or protections in the sale or rental of a dwelling or other
10 real estate, or in the provision of services or facilities in connection with the
11 sale or rental of a dwelling or other real estate. Notwithstanding any judicial
12 precedent to the contrary, such conduct need not be severe or pervasive to be
13 unlawful pursuant to the provisions of this chapter. In determining whether
14 conduct constitutes harassment:

15 (A) The determination shall be made on the basis of the record as a
16 whole, according to the totality of the circumstances, and a single incident may
17 constitute unlawful harassment.

18 (B) Incidents that may be harassment shall be considered in the
19 aggregate with varying types of conduct and conduct based on multiple
20 characteristics viewed in totality, rather than in isolation.

- 1 (C) Conduct may constitute harassment, regardless of whether:
- 2 (i) the complaining person is the individual being harassed;
- 3 (ii) the complaining person acquiesced or otherwise submitted to
4 or participated in the conduct;
- 5 (iii) the conduct is also experienced by others outside the
6 protected class involved in the conduct;
- 7 (iv) the complaining person was able to enjoy the benefit of
8 applicable terms, conditions, privileges, or protections in the sale or rental of a
9 dwelling or other real estate, or to obtain services or facilities in connection
10 with the sale or rental of a dwelling or other real estate despite the conduct;
- 11 (v) the conduct resulted in a physical or psychological injury; or
- 12 (vi) the conduct occurred outside the place of public
13 accommodations or dwelling.

14 **Sec. 5.** 12 V.S.A. § 525 is added to read:

15 § 525. ACTIONS BASED ON DISCRIMINATION

16 An action under 9 V.S.A. § 4506(a) or 21 V.S.A. § 495b shall be
17 commenced within six years after the cause of action accrues and not after.

18 **Sec. 6.** EFFECTIVE DATE

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

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4 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE