

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)(1) [FOR COMMITTEE DISCUSSION] An employee's decision not to  
14 pursue an internal grievance, complaint, or other remedial process with the  
15 employer, employment agency, or labor organization shall not be  
16 determinative in any claim that an employer, employment agency, or labor  
17 organization violated the provisions of this section.

18 (2) An employee shall not be required to demonstrate the existence of  
19 another employee or individual to whom the employee's treatment can be  
20 compared in determining whether a violation of the provisions of this section  
21 occurred.





- 1           (C) Conduct may constitute harassment, regardless of whether:
- 2                   (i) the complaining employee is the individual being harassed;
- 3                   (ii) the complaining employee acquiesced or otherwise submitted  
4 to or participated in the conduct;
- 5                   (iii) the conduct is also experienced by others outside of the  
6 protected class involved in the conduct;
- 7                   (iv) the complaining employee was able to continue carrying out  
8 the employee’s job duties and responsibilities despite the conduct;
- 9                   (v) the conduct resulted in a physical or psychological injury; or  
10 (vi) [FOR COMMITTEE DISCUSSION] the conduct occurred  
11 outside of the workplace.

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

13       § 4500. LEGISLATIVE FINDINGS AND INTENT

14           (a) [FOR COMMITTEE DISCUSSION] The General Assembly finds that  
15 claims of unlawful discrimination in violation of the provisions of this chapter  
16 are rarely appropriate for summary judgment.

17           (b) The provisions of this chapter establishing legal standards, duties, and  
18 requirements with respect to persons with disabilities in places of public  
19 accommodation as defined ~~herein~~ in this chapter, except those provisions  
20 relating to remedies, are intended to implement and to be construed so as to be  
21 consistent with the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

1 and rules adopted ~~thereunder~~ under that Act, and are not intended to impose  
2 additional or higher standards, duties, or requirements than that ~~act~~ Act.

3 ~~(b)~~(c) Subsections 4502(b) and (c) of this title shall not be construed to  
4 create or impose on governmental entities additional or higher standards,  
5 duties, or requirements than that imposed by Title II of the Americans with  
6 Disabilities Act.

7 (d) [FOR COMMITTEE DISCUSSION] Notwithstanding any State or  
8 federal judicial precedent to the contrary, the provisions of this chapter shall be  
9 construed liberally to accomplish its remedial purposes and any exceptions and  
10 exemptions to the provisions of this chapter shall be construed narrowly in  
11 order to maximize the deterrence of discriminatory behavior.

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

13 § 4501. DEFINITIONS

14 As used in this chapter:

15 \* \* \*

16 (12) “Harass” means to engage in unwelcome conduct based on a  
17 person’s race, color, religion, national origin, sex, sexual orientation, gender  
18 identity, ancestry, place of birth, age, crime victim status, or physical or mental  
19 condition that detracts from, undermines, or interferes with the person’s terms,  
20 conditions, privileges, or protections in the sale or rental of a dwelling or other  
21 real estate, or in the provision of services or facilities in connection with the

1 sale or rental of a dwelling or other real estate. Notwithstanding any judicial  
2 precedent to the contrary, such conduct need not be severe or pervasive to be  
3 unlawful pursuant to the provisions of this chapter. In determining whether  
4 conduct constitutes harassment:

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

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

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

12 (i) the complaining person is the individual being harassed;

13 (ii) the complaining person acquiesced or otherwise submitted to  
14 or participated in the conduct;

15 (iii) the conduct is also experienced by others outside of the  
16 protected class involved in the conduct;

17 (iv) the complaining person was able to enjoy the benefit of  
18 applicable terms, conditions, privileges, or protections in the sale or rental of a  
19 dwelling or other real estate, or to obtain services or facilities in connection  
20 with the sale or rental of a dwelling or other real estate despite the conduct;

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





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

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

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

8           (i) the complaining student is the individual being harassed;

9           (ii) the complaining student acquiesced or otherwise submitted to  
10 or participated in the conduct;

11           (iii) the conduct is also experienced by others outside of the  
12 protected class involved in the conduct;

13           (iv) the complaining student was able to continue the student's  
14 education or access school resources despite the conduct;

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

16           (vi) [FOR COMMITTEE DISCUSSION] the conduct occurred  
17 outside of the student's school.

18   \* \* \*

19           Sec. 6. 12 V.S.A. § 525 is added to read:

20           § 525. ACTIONS BASED ON DISCRIMINATION

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

3        Sec. 7. EFFECTIVE DATE

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

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11        (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

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FOR THE COMMITTEE