

Side-by-Side-by-Side Comparison of Existing Law, H.329 As Introduced, and Proposed Amendment to H.329

Section	V.S.A. Citation	Existing Law	H.329 As Introduced	H.329 Amendment Draft 1.1
1	21 V.S.A. § 495	<p>§ 495. UNLAWFUL EMPLOYMENT PRACTICE</p> <p>(a) It shall be unlawful employment practice, except where a bona fide occupational qualification requires persons of a particular race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition:</p> <p>(1) For any employer, employment agency, or labor organization to discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability;</p> <p align="center">* * *</p> <p>(3) For any employment agency to fail or refuse to classify properly or refer for employment or to otherwise discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability;</p> <p>(4) For any labor organization, because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age to discriminate against any individual or against a qualified individual with a disability or to limit, segregate, or qualify its membership;</p> <p align="center">* * *</p> <p>(8) Retaliation prohibited. An employer, employment agency, or labor organization shall not discharge or in any other manner discriminate against any employee because the employee:</p> <p align="center">* * *</p>	<p>§ 495. UNLAWFUL EMPLOYMENT PRACTICE</p> <p>(a) It shall be unlawful employment practice, except where a bona fide occupational qualification requires persons of a particular race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition:</p> <p>(1) For any employer, employment agency, or labor organization to <u>harass or discriminate</u> against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability;</p> <p align="center">* * *</p> <p>(3) For any employment agency to fail or refuse to classify properly or refer for employment or to otherwise <u>harass or discriminate</u> against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability;</p> <p>(4) For any labor organization, because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age to <u>harass or discriminate</u> against any individual or against a qualified individual with a disability or to limit, segregate, or qualify its membership;</p> <p align="center">* * *</p> <p>(8) Retaliation prohibited. An employer, employment agency, or labor organization shall not discharge or in any other manner <u>harass or discriminate</u> against any employee because the employee:</p> <p align="center">* * *</p> <p><u>(i)(1) An employee’s decision not to pursue an internal grievance, complaint, or other remedial process with the employer, employment agency, or labor organization shall not be determinative in any claim that an employer, employment agency, or labor organization violated the provisions of this section.</u></p> <p><u>(2) An employee shall not be required to demonstrate the existence of another employee or individual to whom the employee’s treatment can be compared in determining whether a violation of the provisions of this section occurred.</u></p>	<p>§ 495. UNLAWFUL EMPLOYMENT PRACTICE</p> <p>(a) It shall be unlawful employment practice, except where a bona fide occupational qualification requires persons of a particular race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition:</p> <p>(1) For any employer, employment agency, or labor organization to <u>harass or discriminate</u> against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability;</p> <p align="center">* * *</p> <p>(3) For any employment agency to fail or refuse to classify properly or refer for employment or to otherwise <u>harass or discriminate</u> against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability;</p> <p>(4) For any labor organization, because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age to <u>harass or discriminate</u> against any individual or against a qualified individual with a disability or to limit, segregate, or qualify its membership;</p> <p align="center">* * *</p> <p>(8) Retaliation prohibited. An employer, employment agency, or labor organization shall not discharge or in any other manner <u>harass or discriminate</u> against any employee because the employee:</p> <p align="center">* * *</p> <p><u>(i)(1) An employee’s decision not to pursue an internal grievance, complaint, or other remedial process with the employer, employment agency, or labor organization shall not be determinative in any claim that an employer, employment agency, or labor organization violated the provisions of this section.</u></p> <p><u>(2) An employee shall not be required to demonstrate the existence of another employee or individual to whom the employee’s treatment can be compared in determining whether a violation of the provisions of this section occurred.</u></p>

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			<p>(j)(1) <u>The General Assembly finds that claims of unlawful discrimination in violation of the provisions of this section are rarely appropriate for summary judgment.</u></p> <p>(2) <u>Notwithstanding any State or federal judicial precedent to the contrary:</u></p> <p>(A) <u>the provisions of this section shall be construed liberally to accomplish its remedial purposes and any exceptions and exemptions to the provisions of this section shall be construed narrowly in order to maximize the deterrence of discriminatory behavior; and</u></p> <p>(B) <u>harassment and discrimination need not be severe and pervasive to constitute a violation of this section.</u></p> <p>(3) <u>Behavior that a reasonable employee with the same protected characteristics would consider to be a petty slight or trivial inconvenience shall not constitute unlawful harassment or discrimination pursuant to this section.</u></p>	<p>(j)(1) <u>The General Assembly finds that claims of unlawful discrimination in violation of the provisions of this section are rarely appropriate for summary judgment.</u></p> <p>(2) <u>Notwithstanding any State or federal judicial precedent to the contrary:</u></p> <p>(A) <u>the provisions of this section shall be construed liberally to accomplish its remedial purposes and any exceptions and exemptions to the provisions of this section shall be construed narrowly in order to maximize the deterrence of discriminatory behavior; and</u></p> <p>(B) <u>harassment and discrimination need not be severe or pervasive to constitute a violation of this section.</u></p>
2	21 V.S.A. § 495d	<p>§ 495D. DEFINITIONS</p> <p>As used in this subchapter:</p> <p align="center">* * *</p> <p>(13) “Sexual harassment” is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:</p> <p>(A) submission to that conduct is made either explicitly or implicitly a term or condition of employment;</p> <p>(B) submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or</p> <p>(C) the conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.</p> <p align="center">* * *</p>	<p>§ 495d. DEFINITIONS</p> <p>As used in this subchapter:</p> <p align="center">* * *</p> <p>(13)(A) “Sexual harassment” is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:</p> <p>(A)(i) submission to that conduct is made either explicitly or implicitly a term or condition of employment;</p> <p>(B)(ii) submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or</p> <p>(C)(iii) the conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.</p> <p>(B)(i) <u>Sexual harassment need not be severe and pervasive in order to be unlawful pursuant to this subchapter.</u></p> <p align="center">* * *</p> <p>(16) <u>“Harassment” is a form of discrimination and means unwelcome conduct based on an employee’s race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition that substantially interferes with the employee’s work performance or creates a work environment that is intimidating, hostile, or offensive.</u></p>	<p>§ 495d. DEFINITIONS</p> <p>As used in this subchapter:</p> <p align="center">* * *</p> <p>(13)(A) “Sexual harassment” is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or, physical, written, auditory, or visual conduct of a sexual nature when:</p> <p>(A)(i) submission to that conduct is made either explicitly or implicitly a term or condition of employment;</p> <p>(B)(ii) submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or</p> <p>(C)(iii) the conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.</p> <p>(B) <u>Sexual harassment need not be severe or pervasive in order to be unlawful pursuant to this subchapter.</u></p> <p align="center">* * *</p> <p>(16) <u>“Harass” means to engage in unwelcome conduct based on an employee’s race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition that interferes with the employee’s work or creates a work environment that is intimidating, hostile, or offensive. In determining whether conduct constitutes harassment:</u></p> <p>(A) <u>The determination shall be made on the basis of the record as a whole, according to the totality of the</u></p>

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				<p>circumstances, and a single incident may constitute unlawful harassment.</p> <p>(B) Incidents that may be harassment shall be considered in the aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality, rather than in isolation.</p> <p>(C) Conduct may constitute harassment, regardless of whether:</p> <p>(i) the complaining employee is the individual being harassed;</p> <p>(ii) the complaining employee acquiesced or otherwise submitted to or participated in the conduct;</p> <p>(iii) the conduct is also experienced by others outside of the protected class involved in the conduct;</p> <p>(iv) the complaining employee was able to continue carrying out the employee's job duties and responsibilities despite the conduct;</p> <p>(v) the conduct resulted in a physical or psychological injury; or</p> <p>(vi) the conduct occurred outside of the workplace.</p>
3	9 V.S.A. § 4500	<p>§ 4500. LEGISLATIVE INTENT</p> <p>(a) The provisions of this chapter establishing legal standards, duties, and requirements with respect to persons with disabilities in places of public accommodation as defined in this chapter, except those provisions relating to remedies, are intended to implement and to be construed so as to be consistent with the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. and regulations promulgated under that act, and are not intended to impose additional or higher standards, duties, or requirements than that act.</p> <p>(b) Subsections 4502(b) and (c) of this title shall not be construed to create or impose on governmental entities additional or higher standards, duties, or requirements than that imposed by Title II of the Americans with Disabilities Act.</p>	<p>§ 4500. LEGISLATIVE FINDINGS AND INTENT</p> <p>(a) <u>The General Assembly finds that claims of unlawful discrimination in violation of the provisions of this chapter are rarely appropriate for summary judgment.</u></p> <p>(b) The provisions of this chapter establishing legal standards, duties, and requirements with respect to persons with disabilities in places of public accommodation as defined herein <u>in this chapter</u>, except those provisions relating to remedies, are intended to implement and to be construed so as to be consistent with the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. and rules adopted thereunder <u>under that Act</u>, and are not intended to impose additional or higher standards, duties, or requirements than that act.</p> <p>(b)(c) Subsections 4502(b) and (c) of this title shall not be construed to create or impose on governmental entities additional or higher standards, duties, or requirements than that imposed by Title II of the Americans with Disabilities Act.</p> <p>(d) <u>Notwithstanding any State or federal judicial precedent to the contrary, the provisions of this chapter shall be construed liberally to accomplish its remedial purposes and any exceptions and exemptions to the provisions of this</u></p>	<p>§ 4500. LEGISLATIVE FINDINGS AND INTENT</p> <p>(a) <u>The General Assembly finds that claims of unlawful discrimination in violation of the provisions of this chapter are rarely appropriate for summary judgment.</u></p> <p>(b) The provisions of this chapter establishing legal standards, duties, and requirements with respect to persons with disabilities in places of public accommodation as defined herein <u>in this chapter</u>, except those provisions relating to remedies, are intended to implement and to be construed so as to be consistent with the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. and rules adopted thereunder <u>under that Act</u>, and are not intended to impose additional or higher standards, duties, or requirements than that act <u>Act</u>.</p> <p>(b)(c) Subsections 4502(b) and (c) of this title shall not be construed to create or impose on governmental entities additional or higher standards, duties, or requirements than that imposed by Title II of the Americans with Disabilities Act.</p> <p>(d) <u>Notwithstanding any State or federal judicial precedent to the contrary, the provisions of this chapter shall be construed liberally to accomplish its remedial purposes and any exceptions and exemptions to the provisions of this</u></p>

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			chapter shall be construed narrowly in order to maximize the deterrence of discriminatory behavior.	chapter shall be construed narrowly in order to maximize the deterrence of discriminatory behavior.
4	9 V.S.A. § 4501	<p>§ 4501. DEFINITIONS As used in this chapter:</p> <p align="center">* * *</p>	<p>§ 4501. DEFINITIONS As used in this chapter:</p> <p align="center">* * *</p> <p>(12) “Harass” means to engage in unwelcome conduct based on a person’s race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition that substantially detracts from, undermines, or interferes with the person’s terms, conditions, privileges, or protections in the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection with the sale or rental of a dwelling or other real estate. Notwithstanding any judicial precedent to the contrary, such conduct need not be severe and pervasive to be unlawful pursuant to the provisions of this chapter.</p>	<p>§ 4501. DEFINITIONS As used in this chapter:</p> <p align="center">* * *</p> <p>(12) “Harass” means to engage in unwelcome conduct based on a person’s race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition <u>that detracts from, undermines, or interferes with</u> the person’s terms, conditions, privileges, or protections in the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection with the sale or rental of a dwelling or other real estate. Notwithstanding any judicial precedent to the contrary, such conduct need not be severe <u>or</u> pervasive to be unlawful pursuant to the provisions of this chapter. <u>In determining whether conduct constitutes harassment:</u></p> <p>(A) <u>The determination shall be made on the basis of the record as a whole, according to the totality of the circumstances, and a single incident may constitute unlawful harassment.</u></p> <p>(B) <u>Incidents that may be harassment shall be considered in the aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality, rather than in isolation.</u></p> <p>(C) <u>Conduct may constitute harassment, regardless of whether:</u></p> <p>(i) <u>the complaining person is the individual being harassed;</u></p> <p>(ii) <u>the complaining person acquiesced or otherwise submitted to or participated in the conduct;</u></p> <p>(iii) <u>the conduct is also experienced by others outside of the protected class involved in the conduct;</u></p> <p>(iv) <u>the complaining person was able to enjoy the benefit of applicable terms, conditions, privileges, or protections in the sale or rental of a dwelling or other real estate, or to obtain services or facilities in connection with the sale or rental of a dwelling or other real estate despite the conduct;</u></p> <p>(v) <u>the conduct resulted in a physical or psychological injury; or</u></p> <p>(vi) <u>the conduct occurred outside of the place of public accommodations or dwelling.</u></p>

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<p>5</p>	<p>16 V.S.A. § 11</p>	<p>§ 11. CLASSIFICATIONS AND DEFINITIONS (a) As used in this title, unless the context otherwise clearly requires: * * * (26)(A) “Harassment” means an incident or incidents of verbal, written, visual, or physical conduct, including any incident conducted by electronic means, based on or motivated by a student’s or a student’s family member’s actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student’s educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment. * * *</p>	<p>§ 11. CLASSIFICATIONS AND DEFINITIONS (a) As used in this title, unless the context otherwise clearly requires: * * * (26)(A) “Harassment” means an incident or incidents of verbal, written, visual, or physical conduct, including any incident conducted by electronic means, based on or motivated by a student’s or a student’s family member’s actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student’s educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment. * * * <u>(C) Notwithstanding any judicial precedent to the contrary, the conduct described in this subdivision (a)(26) need not be severe and pervasive to constitute harassment.</u> * * *</p>	<p>§ 11. CLASSIFICATIONS AND DEFINITIONS (a) As used in this title, unless the context otherwise clearly requires: * * * (26)(A) “Harassment” means an incident or incidents of verbal, written, visual, or physical conduct, including any incident conducted by electronic means, based on or motivated by a student’s or a student’s family member’s actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student’s educational performance education or access to school resources or creating an objectively intimidating, hostile, or offensive environment. * * * <u>(C) Notwithstanding any judicial precedent to the contrary, the conduct described in this subdivision (a)(26) need not be severe or pervasive to constitute harassment. In determining whether conduct constitutes harassment:</u> <u>(A) The determination shall be made on the basis of the record as a whole, according to the totality of the circumstances, and a single incident may constitute unlawful harassment.</u> <u>(B) Incidents that may be harassment shall be considered in the aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality, rather than in isolation.</u> <u>(C) Conduct may constitute harassment, regardless of whether:</u> <u>(i) the complaining student is the individual being harassed;</u> <u>(ii) the complaining student acquiesced or otherwise submitted to or participated in the conduct;</u> <u>(iii) the conduct is also experienced by others outside of the protected class involved in the conduct;</u> <u>(iv) the complaining student was able to continue the student’s education or access school resources despite the conduct;</u> <u>(v) the conduct resulted in a physical or psychological injury; or</u> <u>(vi) the conduct occurred outside of the student’s school.</u> * * *</p>
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6	12 V.S.A. § 525	N/A	<u>§ 525. ACTIONS BASED ON DISCRIMINATION</u> <u>An action under 9 V.S.A. § 4506(a) or 21 V.S.A. § 495b shall be commenced within six years after the cause of action accrues and not after.</u>	<u>§ 525. ACTIONS BASED ON DISCRIMINATION</u> <u>An action under 9 V.S.A. § 4506(a) or 21 V.S.A. § 495b shall be commenced within six years after the cause of action accrues and not after.</u>
7	Effective Date	N/A	This act shall take effect on July 1, 2021.	This act shall take effect on July 1, 2022.