### 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	
1	21 V.S.A. § 495	§ 495. UNLAWFUL EMPLOYMENT PRACTICE	§ 495. UNLAWFUL EMPLOYMENT PRACTICE	§ 495. UNL
		(a) It shall be unlawful employment practice, except where	(a) It shall be unlawful employment practice, except	(a) It sha
		a bona fide occupational qualification requires persons of a	where a bona fide occupational qualification requires persons	where a bon
		particular race, color, religion, national origin, sex, sexual	of a particular race, color, religion, national origin, sex, sexual	of a particul
		orientation, gender identity, ancestry, place of birth, age,	orientation, gender identity, ancestry, place of birth, age,	orientation,
		crime victim status, or physical or mental condition:	crime victim status, or physical or mental condition:	crime victim
		(1) For any employer, employment agency, or labor	(1) For any employer, employment agency, or labor	(1) Fo
		organization to discriminate against any individual because of	organization to <u>harass or</u> discriminate against any individual	organization
		race, color, religion, ancestry, national origin, sex, sexual	because of race, color, religion, ancestry, national origin, sex,	because of ra
		orientation, gender identity, place of birth, crime victim	sexual orientation, gender identity, place of birth, crime	sexual orient
		status, or age or against a qualified individual with a	victim status, or age or against a qualified individual with a	victim status
		disability;	disability;	disability;
		(3) For any employment agency to fail or refuse to	(3) For any employment agency to fail or refuse to	(3) Fo
		classify properly or refer for employment or to otherwise	classify properly or refer for employment or to otherwise	classify prop
		discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation,	<u>harass or</u> discriminate against any individual because of race,	harass or dis color, religio
		gender identity, place of birth, crime victim status, or age or	color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim	orientation,
		against a qualified individual with a disability;	status, or age or against a qualified individual with a	status, or age
		(4) For any labor organization, because of race, color,	disability;	disability;
		religion, ancestry, national origin, sex, sexual orientation,	(4) For any labor organization, because of race, color,	(4) Fo
		gender identity, place of birth, crime victim status, or age to	religion, ancestry, national origin, sex, sexual orientation,	religion, and
		discriminate against any individual or against a qualified	gender identity, place of birth, crime victim status, or age to	gender ident
		individual with a disability or to limit, segregate, or qualify its	harass or discriminate against any individual or against a	harass or dis
		membership;	qualified individual with a disability or to limit, segregate, or	qualified ind
		* * *	qualify its membership;	qualify its m
		(8) Retaliation prohibited. An employer, employment	***	
		agency, or labor organization shall not discharge or in any	(8) Retaliation prohibited. An employer, employment	(8) <del>Re</del>
		other manner discriminate against any employee because the	agency, or labor organization shall not discharge or in any	agency, or la
		employee:	other manner harass or discriminate against any employee	other manner
		* * *	because the employee:	because the
			* * *	
			(i)(1) An employee's decision not to pursue an internal	<u>(i)(1) An</u>
			grievance, complaint, or other remedial process with the	grievance, co
			employer, employment agency, or labor organization shall not	employer, en
			be determinative in any claim that an employer, employment	be determina
			agency, or labor organization violated the provisions of this	agency, or la
			$\frac{\text{section.}}{(2)}$	section.
			(2) An employee shall not be required to demonstrate	(2) Ar
			the existence of another employee or individual to whom the	the existence
			employee's treatment can be compared in determining	employee's t
			whether a violation of the provisions of this section occurred.	whether a vie

#### H.329 Amendment Draft 1.1

LAWFUL EMPLOYMENT PRACTICE all be unlawful employment practice, except na fide occupational qualification requires persons lar race, color, religion, national origin, sex, sexual gender identity, ancestry, place of birth, age, m status, or physical or mental condition: For any employer, employment agency, or labor on to harass or discriminate against any individual race, color, religion, ancestry, national origin, sex, ntation, gender identity, place of birth, crime is, or age or against a qualified individual with a

For any employment agency to fail or refuse to operly or refer for employment or to otherwise iscriminate against any individual because of race, ion, ancestry, national origin, sex, sexual gender identity, place of birth, crime victim ge or against a qualified individual with a

\* \* \*

For any labor organization, because of race, color, cestry, national origin, sex, sexual orientation, ntity, place of birth, crime victim status, or age to iscriminate against any individual or against a dividual with a disability or to limit, segregate, or membership;

\* \* \*

Retaliation prohibited. An employer, employment labor organization shall not discharge or in any er harass or discriminate against any employee employee: \* \* \*

n employee's decision not to pursue an internal complaint, or other remedial process with the employment agency, or labor organization shall not native in any claim that an employer, employment labor organization violated the provisions of this

An employee shall not be required to demonstrate ce of another employee or individual to whom the s treatment can be compared in determining iolation of the provisions of this section occurred.

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

			(j)(1) The General Assembly finds that claims of unlawful	<u>(j)(1)</u> Th
			discrimination in violation of the provisions of this section are	<u>discriminati</u>
			rarely appropriate for summary judgment.	rarely appro
			(2) Notwithstanding any State or federal judicial	<u>(2)</u> N
			precedent to the contrary:	precedent to
			(A) the provisions of this section shall be construed	<u>(A</u> )
			liberally to accomplish its remedial purposes and any	liberally to a
			exceptions and exemptions to the provisions of this section	exceptions a
			shall be construed narrowly in order to maximize the	shall be con
			deterrence of discriminatory behavior; and	deterrence of
			(B) harassment and discrimination need not be	<u>(B)</u>
			severe and pervasive to constitute a violation of this section.	<u>severe <mark>or</mark> pe</u>
			(3) 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.	
2	21 V.S.A. § 495d	§ 495D. DEFINITIONS	§ 495d. DEFINITIONS	§ 495d. DE
		As used in this subchapter:	As used in this subchapter:	As used i
		* * *	* * *	
		(13) "Sexual harassment" is a form of sex	(13)(A) "Sexual harassment" is a form of sex	(13) <u>(</u>
		discrimination and means unwelcome sexual advances,	discrimination and means unwelcome sexual advances,	discriminati
		requests for sexual favors, and other verbal or physical	requests for sexual favors, and other verbal or physical	requests for
		conduct of a sexual nature when:	conduct of a sexual nature when:	written, aud
		(A) submission to that conduct is made either	(A)(i) submission to that conduct is made either	(A)
		explicitly or implicitly a term or condition of employment;	explicitly or implicitly a term or condition of employment;	explicitly or
		(B) submission to or rejection of such conduct by an	(B)(ii) submission to or rejection of such conduct by	<del>(B)</del>
		individual is used as a component of the basis for	an individual is used as a component of the basis for	an individua
		employment decisions affecting that individual; or	employment decisions affecting that individual; or	employment
		(C) the conduct has the purpose or effect of	(C)(iii) the conduct has the purpose or effect of	( <del>C</del> )
		substantially interfering with an individual's work	substantially interfering with an individual's work	<mark>substantially</mark>
		performance or creating an intimidating, hostile, or offensive	performance or creating an intimidating, hostile, or offensive	performance
		work environment.	work environment.	work enviro
		* * *	(B)(i) Sexual harassment need not be severe and	<u>(B)</u>
			pervasive in order to be unlawful pursuant to this subchapter.	pervasive in
			* * *	
			(16) "Harassment" is a form of discrimination and	<u>(16)</u> '
			means unwelcome conduct based on an employee's race,	based on an
			color, religion, national origin, sex, sexual orientation, gender	sex, sexual o
			identity, ancestry, place of birth, age, crime victim status, or	<u>birth, age, c</u>
			physical or mental condition that substantially interferes with	that interference
			the employee's work performance or creates a work	environmen
			environment that is intimidating, hostile, or offensive.	determining
				<u>(A</u> )
				the record as

The General Assembly finds that claims of unlawful tion in violation of the provisions of this section are opriate for summary judgment. Notwithstanding any State or federal judicial

to the contrary:

A) the provisions of this section shall be construed accomplish its remedial purposes and any and exemptions to the provisions of this section nstrued narrowly in order to maximize the

of discriminatory behavior; and

B) harassment and discrimination need not be ervasive to constitute a violation of this section.

EFINITIONS in this subchapter: \* \* \*

(A) "Sexual harassment" is a form of sex tion and means unwelcome sexual advances, or sexual favors, and other verbal or, physical, ditory, or visual conduct of a sexual nature when:  $\frac{(i)}{(i)}$  submission to that conduct is made either or implicitly a term or condition of employment; 3)(ii) submission to or rejection of such conduct by al is used as a component of the basis for ent decisions affecting that individual; or C)(iii) the conduct has the purpose or effect of ly interfering with an individual's work e or creating an intimidating, hostile, or offensive ronment. B) Sexual harassment need not be severe or

in order to be unlawful pursuant to this subchapter. \* \* \*

"Harass" means to engage in unwelcome conduct n employee's race, color, religion, national origin, orientation, gender identity, ancestry, place of crime victim status, or physical or mental condition res with the employee's work or creates a work ent that is intimidating, hostile, or offensive. In g whether conduct constitutes harassment: A) The determination shall be made on the basis of as a whole, according to the totality of the

3       9 V.S.A. § 4500       § 4500. LEGISLATIVE INTENT (a) The provisions of this chapter establishing legal standards, dutics, and requirements with respect to persons with disabilities and, dutics, and requirements with respect to persons in this chapter: except those provisions of this chapter establishing legal standards, dutics, and requirements with respect to persons with disabilities that act, and are not intended to impose admittional provisions of this chapter that act, and are not intended to impose admittional provisions of this chapter standards, dutics, or requirements than that act. (b) Numericans with Disabilities Act, 42 U.S.C. § 12101 est carry appropriate for service those provisions relating to remedies, are induced to impose additional provisions of this chapter estabilishing legal standards, dutics, or requirements than that imposed by Tritle II of the Americans with Disabilities Act.       § 4500. LEGISLATIVE PINDINGS AKD INTENT (a) The Cleneral Assembly finds that claims of unlawful discrimination in solution of the provisions of this chapter standards, dutics, and requirements with respect to persons with disabilities in provisions of this chapter estabilishing legal standards, dutics, and requirements with respect to persons with disabilities and the construct os as to consistent with the Americans with Disabilities Act.       § 4500. LEGISLATIVE PINDINGS AKD INTENT (a) The Cleneral Assembly finds that claims of unlawful discrimination in solution of the provisions of this chapter estabilishing legal standards, dutics, or requirements than that imposed by Tritle II of the Americans with Disabilities Act.       § 4500. LEGISLATIVE PINDINGS AKD INTENT (b) Numericans of the provisions of this chapter estabilities and this chapter estabilities and this the shall not be construct to a care of impose on governmental entities and the provision of this chapter estabilities and this the shall not be construct to accom					
3       9 V.S.A. § 4500. LEGISLATIVE INTENT (a) The provisions of this chapter establishing legal in this chapter, except those provisions relating to remedies, are intended to implement and to be construct of one score that act, and are not intended to impose additional or higher standards, duties, or requirements than that and and and or higher standards, duties, or requirements than that imposed by Title II of the Americans with Disabilities Act.       \$ 4500. LEGISLATIVE HNTENT (a) The provisions of this chapter establishing legal in this chapter, except those provisions relating to remedies, are intended to implement and to be construct of one score those provisions relating to consistent with the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. and requirements than that act. (b) The provisions of bis chapter establishing legal standards, duties, or requirements than that act. (c) The construct of 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.       \$ 4500. LEGISLATIVE HNDINGS AND INTENT (a) The provisions of lais chapter establishing legal standards, duties, or requirements with respect to persons with disabilities Act, 42 U.S.C. § 12101 escq. and requirements than that act. (b) Subsections 4502(b) and (c) of this title shall not be construct of create or impose on governmental entities additional or higher standards, duties, or requirements than that act. (c) Notwithstanding any State or federal judicial that imposed by Title II of the Americans with Disabilities Act.       (d) Notwithstanding any State or federal judicial that imposed by Title II of the construct of the construct or requirements than that imposed by Title II of the construct or the construct or the standards, duties, or requirements than that imposed by Title II of the construct or accon inprose on governmental entities additional or higher					circumstance
3       9 V.S.A. § 4500. LEGISLATIVE INTENT <ul> <li>(a) The provisions of this chapter establishing legal standards, duties, and requirements with consistent with the Americans with Disabilities in places of public accommodation as defined in this chapter, except those provisions relating to remedies, and requirements than that arct.</li> <li>(b) The growisions of this chapter establishing legal standards, duties, or requirements than that arct.</li> <li>(b) Subsections 4502(b) and (c) of this tide shall not be consistent with the Americans with Disabilities Act, 42             <ul> <li>(b) Subsections 4502(b) and (c) of this tide shall not be construed to reace or impose on governmental entities additional or higher standards, duties, or requirements than that arct.</li> <li>(b) Subsections 4502(b) and (c) of this tide shall not be construed to a figher standards, duties, or requirements than that.</li> <li>(c) Subsections 4502(b) and (c) of this tide shall not be construed to a figher standards, duties, or requirements than that.</li> <li>(d) Subsections 4502(b) and (c) of this tide shall not be construed to a figher standards, duties, or requirements than that.</li> <li>(d) Subsections 4502(b) and (c) of this tide shall not be construed to a figher standards, duties, or requirements than that.</li> <li>(d) Subsections 4502(b) and (c) of this tide shall not be construed to a figher standards, duties, or requirements than that at.</li> <li>(d) Subsections 4502(b) and (c) of this tide shall not be construed to a figher standards, duties, or requirements than that at.</li></ul></li></ul>					
<ul> <li>9 V.S.A. § 4500</li> <li>§ 4500. LEGISLATIVE INTENT         <ul> <li>(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 to a respect and are duties, and requirements with the shall rot be construed to a respect on persons with disabilities in places of public accommodation as defined that at. (b) Subsections 4502(b) and (c) of this thile shall not be construed to a remedies and ditional or higher standards, duties, or requirements than that at. (b) Subsections 4502(b) and (c) of this tile shall not be construed to a requert and are not intended to implement and to be construed to a remedies and this hander. (c) Subsections 4502(b) and (c) of this tile shall not be construed to a requert on spore additional or higher standards, duties, or requirements than that at. (b) Subsections 4502(b) and (c) of this tile shall not be construed to a remedies that imposed by Title II of the Americans with Disabilities Act.</li> <li>(b) The provisions of this chapter establishing legal standards, duties, or requirements than that at. (b) Subsections 4502(b) and (c) of this tile shall not be construed to a remedies and this duties, or requirements than that at. (b) Subsections 4502(b) and (c) of this tile shall not be construed to a remedies that adat. (c) Subsections 4502(b) and (c) of this tile shall not be construed to a regulational or higher standards, duties, or requirements than that at.</li> <li>(d) Notwithstanding any State or fideral judicial trade construed to the contray, the provisions of this chapter shall be construed to a regulational or higher standards, duties, or requirements that that at.</li> <li>(d) Notwithstanding any State or fideral judicial trade construed to the contray. the provisions of this chapter shall be construe</li></ul></li></ul>					
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<ul> <li>3 9 V.S.A. § 4500. LEGISLATIVE INTENT         <ul> <li>(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 of this chapter establishing legal standards, duties, or requirements with a result and to be construct to construct to to impose additional or higher standards, duties, or requirements than that ct.</li> <li>(b) Subsections 450(2b) and (c) of this title shall not be construct to create or impose on governmental entities additional or higher standards, duties, or requirements than that that imposed by Title II of the Americans with Disabilities Act.</li> <li>(c) Nowithstanding any State or federal judicial purposes and to construct to construct to construct to construct to the adverticents with Disabilities Act.</li> <li>(d) Nowithstanding any State or federal judicial purposes and to construct to construct to consident to the construct on construct to conse on governmental entities additional or higher standards, duties, or requirements than that ct.</li> <li>(d) Nowithstanding any State or federal judicial purposes and to be construct to consort on consort on the construct on consort on consort on the construct to the construct on the construct on the construct to the co</li></ul></li></ul>					
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3       9 V.S.A. § 4500					
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3       9 V.S.A. § 4500       § 4500. LEGISLATIVE INTENT <ul> <li>(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.       (b) Subsections 4502(b) and (c) of this tile shall not be construed to create or impose on governmental entities additional or higher standards, duties, or requirements than that that imposed by Title II of the Americans with Disabilities Act.       (b) C) Subsections 4502(b) and (c) of this tile shall not be construed to create or impose on governmental entities additional or higher standards, duties, or requirements than that act.       (b) C) Subsections 4502(b) and (c) of this tile shall not be construed to reate or impose on governmental entities additional or higher standards, duties, or requirements than that act.       (b)(c) Subsections 4502(b) and (c) of this tile shall not be construed to reate or impose on governmental entities additional or higher standards, duties, or requirements than that act.       (b)(c) Subsections 4502(b) and (c) of this tile shall not be construed to reate or impose on governmental entities additional or higher standards, duties, or requirements than that act.       (d) Notwithstanding any State or federal judicial provisions of this chapter shall be construed line contrary. the provisions of this chapter shall be construed line contrary duties in provisions of this chapter shall be construed line contrary duties, orened ind puposes and cons trede to impose additional o</li></ul>					
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ces, and a single incident may constitute unlawful
<u>.</u>
B) Incidents that may be harassment shall be
in the aggregate with varying types of conduct and
sed on multiple characteristics viewed in totality,
<u>in isolation.</u>
C) Conduct may constitute harassment, regardless
(i) the complaining employee is the individual
ssed;
(ii) the complaining employee acquiesced or
ubmitted to or participated in the conduct;
(iii) the conduct is also experienced by others
he protected class involved in the conduct;
(iv) the complaining employee was able to
urrying out the employee's job duties and
ities despite the conduct;
(v) the conduct resulted in a physical or
<u>cal injury; or</u>
(vi) the conduct occurred outside of the
EGISLATIVE <u>FINDINGS AND</u> INTENT
General Assembly finds that claims of unlawful
ion in violation of the provisions of this chapter
ppropriate for summary judgment.
provisions of this chapter establishing legal
duties, and requirements with respect to persons
lities in places of public accommodation as defined
is chapter, except those provisions relating to
are intended to implement and to be construed so as
stent with the Americans with Disabilities Act, 42
2101 et seq. and rules adopted thereunder <u>under</u>
nd are not intended to impose additional or higher
duties, or requirements than that <del>act <u>Act</u>.</del>
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or higher standards, duties, or requirements than
ed by Title II of the Americans with Disabilities
withstanding any State or federal judicial precedent

twithstanding any State or federal judicial precedent rary, the provisions of this chapter shall be liberally to accomplish its remedial purposes and ions and exemptions to the provisions of this

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

			chapter shall be construed narrowly in order to maximize the	chapter shall
			deterrence of discriminatory behavior.	deterrence o
4	9 V.S.A. § 4501	§ 4501. DEFINITIONS	§ 4501. DEFINITIONS	§ 4501. DE
		As used in this chapter:	As used in this chapter:	As used i
		* * *	* * *	
			(12) "Harass" means to engage in unwelcome conduct	<u>(12)</u> "
			based on a person's race, color, religion, national origin, sex,	based on a p
			sexual orientation, gender identity, ancestry, place of birth,	sexual orien
			age, crime victim status, or physical or mental condition that	age, crime v
			substantially detracts from, undermines, or interferes with the	detracts from
			person's terms, conditions, privileges, or protections in the	terms, condi
			sale or rental of a dwelling or other real estate, or in the	rental of a d
			provision of services or facilities in connection with the sale	services or f
			or rental of a dwelling or other real estate. Notwithstanding	dwelling or
			any judicial precedent to the contrary, such conduct need not	precedent to
			be severe and pervasive to be unlawful pursuant to the	pervasive to
			provisions of this chapter.	chapter. In
				harassment:
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				the record a
				circumstanc
				harassment. (B)
				<u>considered i</u>
				conduct base
				rather than i
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				of whether:
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				benefit of a
				protections
				estate, or to
				sale or renta
				conduct;
				psychologic
				public accor

Il be construed narrowly in order to maximize the of discriminatory behavior.

EFINITIONS in this chapter:

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"Harass" means to engage in unwelcome conduct person's race, color, religion, national origin, sex, ntation, gender identity, ancestry, place of birth, victim status, or physical or mental condition that m, undermines, or interferes with the person's litions, privileges, or protections in the sale or dwelling or other real estate, or in the provision of facilities in connection with the sale or rental of a other real estate. Notwithstanding any judicial o the contrary, such conduct need not be severe or o be unlawful pursuant to the provisions of this determining whether conduct constitutes

A) The determination shall be made on the basis of as a whole, according to the totality of the ces, and a single incident may constitute unlawful

) Incidents that may be harassment shall be in the aggregate with varying types of conduct and sed on multiple characteristics viewed in totality, in isolation.

) Conduct may constitute harassment, regardless

(i) the complaining person is the individual being

(ii) the complaining person acquiesced or ubmitted to or participated in the conduct; (iii) the conduct is also experienced by others he protected class involved in the conduct;

(iv) the complaining person was able to enjoy the pplicable terms, conditions, privileges, or in the sale or rental of a dwelling or other real o obtain services or facilities in connection with the al of a dwelling or other real estate despite the

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

(vi) the conduct occurred outside of the place of mmodations or dwelling.

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

5	16 V.S.A. § 11	§ 11. CLASSIFICATIONS AND DEFINITIONS	§ 11. CLASSIFICATIONS AND DEFINITIONS	§ 11. CLA
		(a) As used in this title, unless the context otherwise	(a) As used in this title, unless the context otherwise	(a) As u
		clearly requires:	clearly requires:	clearly requ
		* * *	* * *	
		(26)(A) "Harassment" means an incident or incidents of	(26)(A) "Harassment" means an incident or incidents	(26)(4
		verbal, written, visual, or physical conduct, including any	of verbal, written, visual, or physical conduct, including any	of verbal, w
		incident conducted by electronic means, based on or	incident conducted by electronic means, based on or	incident con
		motivated by a student's or a student's family member's	motivated by a student's or a student's family member's	motivated b
		actual or perceived race, creed, color, national origin, marital	actual or perceived race, creed, color, national origin, marital	actual or pe
		status, sex, sexual orientation, gender identity, or disability	status, sex, sexual orientation, gender identity, or disability	status, sex,
		that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a	that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a	that has the underminin
		undermining and detracting from or interfering with a student's educational performance or access to school	student's educational performance or access to school	student's ec
		resources or creating an objectively intimidating, hostile, or	resources or creating an objectively intimidating, hostile, or	school reso
		offensive environment.	offensive environment.	hostile, or c
		* * *	* * *	nostne, or e
			(C) Notwithstanding any judicial precedent to the	<u>(C)</u> N
			contrary, the conduct described in this subdivision $(a)(26)$	contrary, th
			need not be severe and pervasive to constitute harassment.	need not be
			* * *	determining
				( <u>A</u>
				the record a
				circumstance
				harassment
				<u>(B</u>
				considered
				conduct bas
				rather than
				<u>(C</u>
				of whether:
				being haras
				Uenig naras
				otherwise s
				<u>otherwise s</u>
				outside of t
				the student?
				conduct;
				psychologic
				<u>school.</u>

#### SSIFICATIONS AND DEFINITIONS used in this title, unless the context otherwise ires:

\* \* \*

A) "Harassment" means an incident or incidents vritten, visual, or physical conduct, including any nducted by electronic means, based on or by a student's or a student's family member's erceived race, creed, color, national origin, marital sexual orientation, gender identity, or disability purpose or effect of objectively and substantially ig and detracting from or interfering with a ducational performance education or access to urces or creating an objectively intimidating, offensive environment.

\* \* \*

Notwithstanding any judicial precedent to the the conduct described in this subdivision (a)(26)severe or pervasive to constitute harassment. In g whether conduct constitutes harassment: A) The determination shall be made on the basis of as a whole, according to the totality of the ces, and a single incident may constitute unlawful

) Incidents that may be harassment shall be in the aggregate with varying types of conduct and sed on multiple characteristics viewed in totality, in isolation.

Conduct may constitute harassment, regardless

(i) the complaining student is the individual sed;

(ii) the complaining student acquiesced or ubmitted to or participated in the conduct;

(iii) the conduct is also experienced by others he protected class involved in the conduct;

(iv) the complaining student was able to continue s education or access school resources despite the

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

(vi) the conduct occurred outside of the student's

\* \* \*

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

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</u> <u>shall be commenced within six years after the cause of action</u> <u>accrues and not after.</u>	<u>§ 525. ACTI</u> An action shall be comr accrues and n
7	Effective Date	N/A	This act shall take effect on July 1, 2021.	This act shall

TIONS BASED ON DISCRIMINATION n under 9 V.S.A. § 4506(a) or 21 V.S.A. § 495b nmenced within six years after the cause of action not after. <u>Ill take effect on July 1, 2022.</u>