

**Proposed Revisions to H.329 by VSBA, VSBIT, VSA, and VPA**

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We continue to be grateful for your attention to the concerns our organizations have outlined in testimony previously submitted to the Committee regarding the effects of House Bill 329 in schools. VSBA, VSA, VSBIT, and VPA appreciate the changes proposed through Bill Draft 4.1.

However, the proposed bill now contains specificity - with which the proposed exclusions at 9 V.S.A. § 4503(d)(3) are now stated, *see* Draft 4.1 page 8, lines 9-11, - which our organizations are willing to accept but as currently drafted are as yet incomplete. We request adding specifically language to also exclude the third provision from which liability may arise for school systems under the VPAA - 9 V.S.A. § 4506. [Section 4506 sets forth a private right of action under the Public Accommodations Act].

Adding this language - to exclude section 4506 - is necessary to dispel potential future interpretations by Courts that because 9 V.S.A. § 4502 and 16 V.S.A. § 570f **were specifically excluded**, there was an affirmative decision to omit a reference to 9 V.S.A. § 4506 which must signify that it was intentionally omitted and thus not excluded. Such an interpretation has precedent in VT law. *See T.C. v. L.D.*, 2020 VT 19, ¶¶ 5, 8, 211 Vt. 582 (explaining that under canon of statutory construction known as *expression unius est exclusio alterius*—*i.e.*, “the expression of one thing is the exclusion of the other”—where “that which is expressed is so set over by way of strong contrast to that which is omitted . . . the contrast enforces the affirmative inference that that which is omitted must be intended to have opposite and contrary treatment” (emphasis added)).

Accordingly, we would request the following alteration to the bills proposed section (3) at 9 V.S.A. § 4503(d)(3) to read as follows:

**(d)(3) The provisions of this subsection shall not apply to section 4502 of this chapter, including any action brought under this chapter pursuant to the provisions of 16 V.S.A. § 570f.**

**(4) The provisions of this subsection shall not apply to any action brought under section 4506 of this chapter not relating to the sale or rental of a dwelling or other real estate or the provisions of services or facilities in connection therewith, including any action brought under this chapter pursuant to the provisions of 16 V.S.A. § 570f.**

With this change, our organizations will accept H.329. Thank you for your consideration.