

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 183
3 entitled “An act relating to sexual violence” respectfully reports that it has
4 considered the same and recommends that the bill be amended by striking out
5 all after the enacting clause and inserting in lieu thereof the following:

6 Sec. 1. 13 V.S.A. § 3251 is amended to read:

7 § 3251. DEFINITIONS

8 As used in this chapter:

9 * * *

10 (3) “Consent” means words or actions by a person indicating a knowing
11 or voluntary agreement to engage in a sexual act.

12 * * *

13 (10) “Incapable of consenting” means the person is:

14 (A) incapable of appraising the nature of the conduct at issue; or

15 (B) physically incapable of declining participation in, or

16 communicating unwillingness to engage in, the sexual act at issue.

17 (11) “Developmental disability” has the same meaning as in 18 V.S.A.

18 § 9302.

19 (12) “Psychiatric disability” has the same meaning as in 1 V.S.A. § 147.

20 Sec. 2. 13 V.S.A. § 3252 is amended to read:

21 § 3252. SEXUAL ASSAULT

1 (a) No person shall engage in a sexual act with another person ~~and compel~~
2 ~~the other person to participate in a sexual act:~~

3 (1) without the consent of the other person; ~~or~~

4 (2) by threatening or coercing the other person; ~~or~~

5 (3) by placing the other person in fear that any person will suffer
6 imminent bodily injury; or

7 (4) when the person knows or reasonably should know that the other
8 person is asleep, unconscious, or otherwise unaware that the sexual act is
9 occurring.

10 (b)(1) No person shall ~~engage in a sexual act with another person and~~
11 ~~impair substantially the ability of the other person to appraise or control~~
12 ~~conduct by administering or employing drugs or intoxicants without the~~
13 ~~knowledge or against the will of the other person~~ administer any alcohol,
14 drugs, or other intoxicants to another person without the person's knowledge
15 or against the person's will and, while the person is impaired by the alcohol,
16 drugs, or intoxicants, engage in a sexual act with that person.

17 (2) No person shall engage in a sexual act with another person when the
18 other person is incapable of consenting to the sexual act due to **substantial**
19 impairment by alcohol, drugs, or other intoxicants and that condition is known
20 or reasonably should be known by the person.

21 * * *

1 (f)(1) A person who violates subsection (a), (b), (d), or (e) of this section
2 shall be imprisoned not less than three years and for a maximum term of life;
3 and, in addition, may be fined not more than \$25,000.00.

4 * * *

5 (g) A person convicted of violating subsection (a), (b), (d), or (e) of this
6 section shall be sentenced under section 3271 of this title.

7 Sec. 3. 13 V.S.A. § 3254 is amended to read:

8 § 3254. TRIAL PROCEDURE; CONSENT

9 In a prosecution for a crime defined in this chapter or section 2601 of this
10 title:

11 (1) ~~lack of consent may be shown without proof of resistance; Lack of~~
12 verbal or physical resistance does not constitute consent.

13 (2) An expression of lack of consent through words or conduct means
14 there is no consent.

15 (3) Submission resulting from the use of force, threat of force, or
16 placing another person in fear does not constitute consent.

17 (4) Consent shall not be demonstrated by evidence prohibited under
18 section 3255 of this title.

19 (5) A sleeping or unconscious person cannot consent.

20 (6) a A person shall be deemed to have acted without the consent of the
21 other person where the actor:

1 (A) ~~knows~~ knew or reasonably should have known that the other
2 person ~~is~~ was mentally incapable of understanding the nature of the sexual act
3 or lewd and lascivious conduct; ~~or~~

4 (B) ~~knows~~ knew or reasonably should have known that the other
5 person ~~is~~ was not physically capable of resisting, or declining consent to, the
6 sexual act or lewd and lascivious conduct; ~~or~~

7 (C) ~~knows~~ knew or reasonably should have known that the other
8 person ~~is~~ was unaware that a sexual act or lewd and lascivious conduct ~~is~~ was
9 being committed; ~~or~~

10 (D) ~~knows~~ knew or reasonably should have known that the other
11 person ~~is~~ was mentally incapable of resisting, or declining consent to,
12 consenting to the sexual act or lewd and lascivious conduct; due to a ~~mental~~
13 ~~condition or a~~ psychiatric or developmental disability ~~as defined in 14 V.S.A. §~~
14 ~~3061; or~~

15 (E) knew or reasonably should have known that the other person was
16 incapable of consenting to the sexual act or lewd and lascivious conduct with
17 the actor because the person was substantially impaired by alcohol, drugs, or
18 other intoxicants.

19 Sec. 4. DATA COLLECTION AND REPORTING

20 (a)(1) On or before September 1, 2024 and bi-annually thereafter, the
21 Department of Public Safety shall provide a statistical report to the General

1 Assembly based on data from the National Incident Based Reporting System
2 and the Vermont Judiciary on the following:

3 (A) The number of sexual violence cases reported to State, county,
4 and municipal law enforcement agencies and every constable who exercises
5 law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in
6 compliance with 5 20 V.S.A. § 2358.

7 (B) The number of civil sexual assault or stalking orders granted.

8 (C) The number of sexual violence cases referred by law enforcement
9 to a state’s attorney or the Attorney General for potential charges.

10 (D) The number of sexual violence cases charged, the nature of the
11 charge, and the disposition of the charges.

12 (2) The data identified in subdivision (a)(1) of this section shall be
13 organized and reported to the General Assembly by county.

14 (b) The Department of Public Safety shall make a reasonable effort to
15 protect victim confidentiality when statistical information may be identifying.

16 (c) The Department of Public Safety shall post the data collected pursuant
17 to subsection (a) of this section on its website in a manner that is clear,
18 understandable, and accessible to the public.

19 Sec. 5. 16 V.S.A. § 2187 is added to read:

20 § 2187. INTERCOLLEGIATE SEXUAL VIOLENCE PREVENTION

21 COUNCIL

1 (a) Creation. There is created the Intercollegiate Sexual Violence
2 Prevention Council to create a coordinated response to campus sexual harm,
3 including across institutions of higher learning in Vermont.

4 (b) Membership. The Council shall be composed of the following
5 members:

6 (1) the Title IX coordinator from each institution of higher learning in
7 Vermont;

8 (2) a campus-based prevention/education coordinator appointed by the
9 Vermont State Colleges;

10 (3) a campus-based prevention/education coordinator appointed by the
11 University of Vermont;

12 (4) a campus-based prevention/education coordinator appointed by the
13 Association of Vermont Independent Colleges;

14 (5) two community-based sexual violence advocates appointed by the
15 Network Against Domestic and Sexual Violence;

16 (6) two law enforcement of public safety representatives with
17 experience responding to and investigating campus sexual violence appointed
18 by the Commissioner of Public Safety;

19 (7) two college students appointed by the Center for Crime Victim
20 Services;

1 (8) a person with expertise in sexual violence responses within the
2 lesbian, gay, bisexual, transgender, queer community appointed by the
3 Vermont Center for Crime Victim Services;

4 (9) a sexual assault nurse examiner appointed by the Network Against
5 Domestic and Sexual Violence; and

6 (10) a prosecutor from either the Department of State’s Attorneys and
7 Sheriffs or the Office of the Attorney General appointed by ...

8 (c) Duties. The Council shall be responsible for the following:

9 (1) interdisciplinary planning and information sharing to support sexual
10 violence prevention programs on every college campus in Vermont;

11 (2) an annual review of aggregate data collected from climate surveys
12 on sexual violence on college campuses in Vermont; and

13 (3) development and distribution of best practices and recommendations
14 on violence prevention, sexual health education, and strategies for mitigating
15 sexual violence and tertiary violence on college campuses in Vermont.

16 (d) Assistance. The Council shall have the administrative and technical
17 assistance of the Network Against Domestic and Sexual Violence.

18 (e) Report. On or before December 2022 and annually thereafter, the
19 Council shall submit a written report to the General Assembly with a summary
20 of activities and any recommendations for legislative action.

21 (f) Meetings.

1 (1) The Network Against Domestic and Sexual Violence shall call the
2 first meeting of the Council to occur on or before September 15, 2021.

3 (2) The Council shall select a chair from among its members at the first
4 meeting.

5 (3) A majority of the membership shall constitute a quorum.

6 (4) Members who are not otherwise compensated by the member's
7 employer for attendance at meetings shall be entitled to per diem compensation
8 and reimbursement of expenses as permitted under 32 V.S.A. § 1010. These
9 payments shall be made from monies appropriated to the Network Against
10 Domestic and Sexual Violence for such purposes.

11 Sec. 6. APPROPRIATIONS

12 (a) In fiscal year 2022, \$13,000.00 is appropriated to the Network Against
13 Domestic and Sexual Violence for the purpose of staffing the Intercollegiate
14 Sexual Violence Prevention Council and per diem compensation and
15 reimbursement of expenses for members who are not otherwise compensated
16 by the member's employer for attendance at meetings.

17 (b) In fiscal year 2022, \$40,000.00 is appropriated to the Vermont Center
18 for Crime Victim Services for use in the Vermont Forensic Nursing Program
19 for the purpose of providing forensic medical care for sexual assault patients
20 within primary care and reproductive health care settings.

1 Sec. 7. EFFECTIVE DATE

2 This act shall take effect on July 1, 2021.

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6 (Committee vote: _____)

7

8

Representative _____

9

FOR THE COMMITTEE