

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 the bill be
5 amended as follows:

6 First: By striking out Secs. 1–3 in their entireties and inserting in lieu
7 thereof new Secs. 1–3 to read as follows:

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

9 § 3251. DEFINITIONS

10 As used in this chapter:

11 * * *

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

14 * * *

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

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

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

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

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

20 § 9302.

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

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

§ 3252. SEXUAL ASSAULT

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

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

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

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

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

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

(2) No person shall engage in a sexual act with another person when the other person is incapable of consenting to the sexual act due to substantial

1 impairment by alcohol, drugs, or other intoxicants and that condition is known
2 or reasonably should be known by the person.

3 * * *

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

7 * * *

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

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

11 § 3254. TRIAL PROCEDURE; CONSENT

12 In a prosecution for a crime defined in this chapter or section 2601 of this
13 title:

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

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

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

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

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

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

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

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

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

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

17 (E) knew or reasonably should have known that the other person was
18 incapable of making a knowing and voluntary decision to engage in the sexual
19 act with the actor because the person was substantially impaired by alcohol,
20 drugs, or other intoxicants.

1 Second: In Sec. 5, 16 V.S.A. § 2187, in subsection (b), by striking out
2 subdivisions (7) and (8) in their entirety and inserting in lieu thereof the
3 following:

4 (7) two college students appointed by the Center for Crime Victim
5 Services;

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

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

11 (10) a prosecutor from either the Department of State's Attorneys and
12 Sheriffs or the Office of the Attorney General appointed by ...

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15 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE