



March 8, 2021

House Committee on the Judiciary
Vermont General Assembly
115 State Street
Montpelier, VT 05633-5301

Re: *H.183 – an act relating to sexual violence*

Dear House Committee on the Judiciary:

MadFreedom, a human and civil rights advocacy organization whose mission is to secure political power to end the discrimination and oppression of people based on their perceived mental state, is opposed to H.183 – an act relating to sexual violence because it criminalizes sexual activity with individuals with a psychiatric disability.

As written, H.183 diminishes the agency and dignity of people with psychiatric disabilities and is likely unconstitutional because it seems to establish a threshold psychiatric impairment as the sole determinant of one's ability to consent to a sexual act.

H.183 bill states:

A person shall be deemed to have acted without the consent of the other person where the actor:

(D) knew or reasonably should have known that the other person was mentally incapable of resisting or declining consent to the sexual act or lewd and lascivious conduct due to a psychiatric or developmental disability.

For purposes of H.183, "psychiatric disability" is defined as "an impairment of thought, mood, perception, orientation or memory that limits one or more major life activities but does not include intellectual disability." (1 V.S.A. §147).

Under the Americans with Disabilities Act, major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

By definition, diagnoses such as depression, bipolar disorder, and schizophrenia impair thought, mood and/or perception. Those diagnoses may also impair one's ability to sleep, concentrate or work. However, neither the diagnoses nor those limitations necessarily affect a person's ability to appreciate the physical act of sex and its possible risks and consequences, which is generally all that is necessary to consent to a sexual act. In addition, people with the same psychiatric disability differ significantly in their abilities to function.

While we appreciate that people with psychiatric diagnoses are often victimized, H.183 does more harm to the class of people diagnosed with mental illnesses than it helps because it diminishes the agency and dignity of all people with psychiatric diagnoses based on an impairment that may be unrelated to whether one has the ability to appreciate the physical act of sex and its possible risks and consequences.

Whether a person with a psychiatric disability has the ability to consent to a sexual act must be left as a question of fact for a jury to decide, rather than an issue of law for legislators to impose.

Adults with psychiatric disabilities are entitled to the same rights as any other adult, including the right to have sex without subjecting one's partner to criminal liability.

Thank you for your consideration.

Very truly yours,



Wilda L. White, JD, MBA
Founder