

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 18
3 entitled “An act relating to sexual exploitation of children” respectfully reports
4 that it has considered the same and recommends that the Senate propose to the
5 House that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

7 Sec. 1. 13 V.S.A. § 2821 is amended to read:

8 § 2821. DEFINITIONS

9 As used in this chapter:

10 (1) “Child” means any person under 16 years of age.

11 (2) “Sexual conduct” means any of the following:

12 (A) any conduct involving contact between the penis and the vulva,
13 the penis and the penis, the penis and the anus, the mouth and the penis, the
14 mouth and the anus, the vulva and the vulva, or the mouth and the vulva;

15 (B) any intrusion, however slight, by any part of a person’s body or
16 any object into the genital or anal opening of another with the intent of
17 arousing, appealing to, or gratifying the lust, passions, or sexual desire of any
18 person;

19 (C) any intentional touching, not through the clothing, of the genitals,
20 anus, or breasts of another with the intent of arousing, appealing to, or
21 gratifying the lust, passions, or sexual desire of any person;

- 1 (D) masturbation;
- 2 (E) bestiality; ~~or~~
- 3 (F) sadomasochistic abuse for sexual purposes; or
- 4 (G) any simulation of the conduct described in subdivisions (2)(A)–
- 5 (F) of this section.

6 * * *

- 7 (7)(A) “Simulation” means the explicit depiction of any conduct
- 8 described in subdivisions (2)(A)–(F) of this section that:
- 9 (i) involves a child as defined in subdivision (1) of this section;
- 10 (ii) creates the appearance of such conduct; and
- 11 (iii) exhibits naked genitals, buttocks, or breasts below the top of
- 12 the areola.
- 13 (B) “Simulation” does not include paintings, drawings, or nonvisual
- 14 or written descriptions of sexual conduct.
- 15 (C) “Simulation” applies only to conduct.

16 Sec. 2. 13 V.S.A. § 2638 is added to read:

17 § 2638. IMMUNITY FROM LIABILITY

18 (a) As used in this section:

- 19 (1) “Human trafficking” has the same meaning as in section 2651 of this
- 20 title.
- 21 (2) “Prostitution” has the same meaning as in section 2631 of this title.

1 (b) A person who, in good faith and in a timely manner, reports to law
2 enforcement that the person is a victim of or a witness to a crime that arose
3 from the person’s involvement in prostitution or human trafficking shall not be
4 cited, arrested, or prosecuted for a violation of the following offenses:

5 (1) section 2632 of this title (prostitution);

6 (2) section 2601a of this title (prohibited conduct);

7 (3) 18 V.S.A. § 4230(a)(1)–(3) (cannabis possession);

8 (4) 18 V.S.A. § 4231(a)(1) and (2) (cocaine possession);

9 (5) 18 V.S.A. § 4232(a)(1) and (2) (LSD possession);

10 (6) 18 V.S.A. § 4233(a)(1) and (2) (heroin possession);

11 (7) 18 V.S.A. § 4234(a)(1) and (2) (depressant, stimulant, and narcotic
12 drugs possession);

13 (8) 18 V.S.A. § 4234a(a)(1) and (2) (methamphetamine possession);

14 (9) 18 V.S.A. § 4235(b)(1) (hallucinogenic drugs possession); and

15 (10) 18 V.S.A. § 4235a(a)(1) (Ecstasy possession).

16 (c) The immunity provisions of this section apply only to the use and
17 derivative use of evidence gained as a proximate result of the person reporting
18 to law enforcement that the person is a victim of or a witness to a crime that
19 arose from the person’s involvement in prostitution or human trafficking and
20 do not preclude prosecution of the person on the basis of evidence obtained
21 from an independent source.

1 (d) A person who qualifies for immunity pursuant to subsection (b) or (c)
2 of this section shall not be subject to the provisions of 18 V.S.A. chapter 84,
3 subchapter 2 concerning property subject to forfeiture, except that prima facie
4 contraband shall be subject to forfeiture.

5 (e) Except in cases of reckless or intentional misconduct, law enforcement
6 shall be immune from liability for citing or arresting a person who is later
7 determined to qualify for immunity under this section.

8 Sec. 3. EFFECTIVE DATE

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

10 and that after passage the title of the bill be amended to read: “An act
11 relating to sexual exploitation of children and limited immunity from liability
12 for a person reporting a crime”

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15 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE