

1 H.213

2 Introduced by Representative Noyes of Wolcott

3 Referred to Committee on

4 Date:

5 Subject: Crimes; human services; child abuse and neglect; assessment and
6 investigation

7 Statement of purpose of bill as introduced: This bill proposes to expand the
8 bases of child abuse and neglect assessments and investigations by developing
9 a statute to specify torture of a child and including investigatory bases for
10 general lewd and lascivious conduct, as well as domestic assaults and offenses
11 committed in the presence of a child. This bill also proposes including child
12 advocacy centers and empaneled multidisciplinary teams in the assessment and
13 investigation processes.

14 An act relating to amending the bases and process of child abuse and
15 neglect investigations

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 Sec. 1. 13 V.S.A. § 1304 is amended to read:

18 § 1304. CRUELTY TO A CHILD; TORTURE OF A CHILD

19 (a) A person over 16 years of age, having the custody, charge, or care of a
20 child, who ~~willfully~~ through omission, neglect, or reckless act, assaults, ill

1 treats, neglects, or abandons or exposes such child, or causes or procures such
2 child to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner
3 to cause such child unnecessary physical suffering or emotional distress, or to
4 endanger ~~his or her~~ the child's health, shall be imprisoned not more than two
5 years or fined not more than \$500.00, or both.

6 (b)(1) A person is guilty of torture of a child when the person knowingly
7 inflicts serious bodily injury or severe emotional distress, or both, against
8 another person within the person's custody, charge, or care.

9 (2)(A) A person who is convicted of torture shall be imprisoned not
10 more than five years or fined not more than \$10,000.00, or both.

11 (B) If the child suffers death, or serious bodily injury ~~as defined in~~
12 ~~subdivision 1021(2) of this title~~, or is subjected to sexual conduct ~~as defined in~~
13 ~~subdivision 2821(2) of this title~~, the person shall be imprisoned not more than
14 ~~ten~~ 10 years or fined not more than \$20,000.00, or both.

15 (3) It shall not be an affirmative defense to a charge under this
16 subsection that the alleged victim did not suffer pain.

17 (2)(4) It shall be an affirmative defense to a charge under this subsection
18 (b), if proven by a preponderance of the evidence, that the defendant engaged
19 in the conduct set forth in subsection (a) of this section because of a reasonable
20 fear that ~~he or she~~ the person or another person would suffer death, bodily

1 injury, or serious bodily injury ~~as defined in section 1021 of this title~~, or sexual
2 assault in violation of chapter 72 of this title.

3 (c) The provisions of this section do not limit or restrict the prosecution for
4 other offenses arising out of the same conduct, nor shall it limit or restrict
5 defenses available under common law.

6 (d) As used in this section:

7 (1) “Emotional distress” has the same meaning as in subdivision
8 1061(2) of this title.

9 (2) “Serious bodily injury” has the same meaning as in subdivision
10 1021(a)(2) of this title.

11 (3) “Sexual conduct” has the same meaning as in subdivision 2821(2) of
12 this title.

13 Sec. 2. 24 V.S.A. § 1940 is amended to read:

14 § 1940. SPECIAL INVESTIGATIVE UNITS; BOARDS; GRANTS

15 (a) Pursuant to the authority established under section 1938 of this title, and
16 in collaboration with law enforcement agencies, investigative agencies,
17 victims’ advocates, child advocacy centers, and social service providers, the
18 Department of State’s Attorneys and Sheriffs shall coordinate efforts to
19 provide access in each region of the State to special investigative units that:

20 (1) shall investigate:

1 (A) an incident in which a child suffers, by other than accidental
2 means, serious bodily injury as defined in 13 V.S.A. § 1021; and

3 (B) potential violations of:

4 (i) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);

5 (ii) 13 V.S.A. chapter 60 (human trafficking);

6 (iii) 13 V.S.A. chapter 64 (sexual exploitation of children);

7 (iv) 13 V.S.A. chapter 72 (sexual assault); and

8 (v) 13 V.S.A. § 1379 (sexual abuse of a vulnerable adult); and

9 (2) may investigate:

10 (A) an incident in which a child suffers:

11 (i) bodily injury, by other than accidental means, as defined in 13
12 V.S.A. § 1021; or

13 (ii) death;

14 (B) potential violations of:

15 (i) 13 V.S.A. § 2601 (lewd and lascivious conduct);

16 (ii) 13 V.S.A. § 2605 (voyeurism); and

17 (iii) 13 V.S.A. § 1304 (cruelty to a child); and

18 (3) may assist with the investigation of other incidents, including
19 incidents involving domestic violence and crimes against vulnerable adults.

20 * * *

1 Sec. 3. 33 V.S.A. § 4915 is amended to read:

2 § 4915. ASSESSMENT AND INVESTIGATION

3 (a) Upon receipt of a report of abuse or neglect, the Department shall
4 promptly determine whether it constitutes an allegation of child abuse or
5 neglect as defined in section 4912 of this title. The Department shall respond
6 to reports of alleged neglect or abuse that occurred in Vermont and to out-of-
7 state conduct when the child is a resident of or is present in Vermont.

8 (b) If the report is accepted as a valid allegation of abuse or neglect, the
9 Department shall determine whether to conduct an assessment as provided for
10 in section 4915a of this title or to conduct an investigation as provided for in
11 section 4915b of this title. The Department shall begin either an assessment or
12 an investigation within 72 hours after the receipt of a report made pursuant to
13 section 4914 of this title, provided that it has sufficient information to proceed.
14 The Commissioner may waive the 72-hour requirement only when necessary
15 to locate the child who is the subject of the allegation or to ensure the safety of
16 the child or social worker.

17 (c) The decision to conduct an assessment shall include consideration of
18 the following factors:

19 (1) the nature of the conduct and the extent of the child's injury, if any;

20 (2) the accused person's prior history of child abuse or neglect, or lack
21 thereof; and

1 (3) the accused person’s willingness or lack thereof to accept
2 responsibility for the conduct and cooperate in remediation.

3 (d) The Department shall conduct an investigation when an accepted report
4 involves allegations indicating substantial child endangerment. For purposes
5 of this section, “substantial child endangerment” includes conduct by an adult
6 involving or resulting in sexual abuse, and conduct by a person responsible for
7 a child’s welfare involving or resulting in abandonment, child fatality,
8 malicious punishment, or abuse or neglect that causes serious physical injury.
9 The Department may conduct an investigation of any report.

10 (e) The Department shall begin an immediate investigation if, at any time
11 during an assessment, it appears that an investigation is appropriate.

12 (f) The Department ~~may~~ shall collaborate with child protection, law
13 enforcement, child advocacy centers, empaneled multidisciplinary teams
14 pursuant to section 4917 of this title, and other ~~departments and agencies~~
15 entities in Vermont and other jurisdictions to evaluate risk to a child and to
16 determine the service needs of the child and family. The Department may
17 enter into reciprocal agreements with other jurisdictions to further the purposes
18 of this subchapter.

19 (g) The Department shall report to and receive assistance from appropriate
20 law enforcement in the following circumstances:

1 (1) investigations of child sexual abuse by an alleged perpetrator 10
2 years of age or older;

3 (2) investigations of serious physical abuse or neglect requiring
4 emergency medical care, resulting in death, or likely to result in criminal
5 charges;

6 (3) situations potentially dangerous to the child or Department worker;
7 ~~and~~

8 (4) situations where children may have witnessed violence, injury,
9 coercion, manipulation, or incidents of criminal activity; and

10 (5) an incident in which a child suffers:

11 (A) serious bodily injury as defined in 13 V.S.A. § 1021, by other
12 than accidental means; and

13 (B) potential violations of:

14 (i) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);

15 (ii) 13 V.S.A. chapter 60 (human trafficking);

16 (iii) 13 V.S.A. chapter 64 (sexual exploitation of children); ~~and~~

17 (iv) 13 V.S.A. chapter 72 (sexual assault);

18 (v) 13 V.S.A. § 1304 (cruelty to a child; torture of a child);

19 (vi) 13 V.S.A. chapter 19, subchapter 6 (domestic assaults;

20 offenses committed within presence of a child); or

21 (vii) 13 V.S.A. § 2601 (lewd and lascivious conduct).

1 (h) Notwithstanding any law to the contrary, reports, assessments, or
2 investigations that are not accepted pursuant to the criteria of this section shall
3 be shared with local child advocacy centers and a member of the local Special
4 Investigation Unit to evaluate whether to commence a criminal investigation or
5 to provide support services for the well-being and safety of any children
6 involved.

7 Sec. 4. 33 V.S.A. § 4917 is amended to read:

8 § 4917. MULTIDISCIPLINARY TEAMS; EMPANELING

9 (a) The Commissioner or ~~his or her~~ the Commissioner's designee may
10 impanel a multidisciplinary team or a special investigative multitask force
11 team, or both, wherever in the State there may be a probable case of child
12 abuse or neglect that warrants the coordinated use of several professional
13 services. These teams shall participate and cooperate with the local special
14 investigation unit in compliance with 13 V.S.A. § 5415 and 24 V.S.A. § 1940.

15 (b) The Commissioner or ~~his or her~~ the Commissioner's designee, in
16 conjunction with professionals and community agencies, shall appoint
17 members to the multidisciplinary teams, which may include persons who are
18 trained and engaged in work relating to child abuse or neglect such as
19 medicine, mental health, social work, nursing, child care, child advocacy
20 centers, education, law, or law enforcement. The teams shall include a
21 representative of the Department of Corrections. Additional persons may be

1 appointed when the services of those persons are appropriate to any particular
2 case.

3 (c) The empaneling of a multidisciplinary or special investigative ~~multi-~~
4 ~~task~~ multitask force team shall be authorized in writing and shall specifically
5 list the members of the team. This list may be amended from time to time as
6 needed as determined by the Commissioner or ~~his or her~~ the Commissioner's
7 designee.

8 Sec. 5. EFFECTIVE DATE

9 This act shall take effect on July 1, 2025.