

H.754

Introduced by Representatives Dobrovich of Williamstown, Bosch of
Clarendon, Boutin of Barre City, Burt of Cabot, Coffin of
Cavendish, Galfetti of Barre Town, Goslant of Northfield,
Luneau of St. Albans City, Maguire of Rutland City, Micklus of
Milton, Morgan, M. of Milton, Nielsen of Brandon, Pinsonault
of Dorset, Southworth of Walden, Taylor of Milton, and Wells
of Brownington

Referred to Committee on

Date:

Subject: Crimes; sentencing; corrections

Statement of purpose of bill as introduced: This bill proposes to establish a
repeat violent offender statute that permits the State to seek stricter penalties
for a person upon a third conviction for a felony crime of violence, establish
higher penalties for aggravated assault against a protected professional, and
require victim input prior to the acceptance of a plea agreement.

An act relating to repeat violent offenders, assaults against a protected
professional, and victim input on plea agreements

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

2 Sec. 1. 13 V.S.A. § 11b is added to read:

3 § 11b. REPEAT VIOLENT OFFENDER

4 (a) As used in this section, “felony crime of violence” means a felony, an
5 element of which involves an act of violence against another person.

6 (b) The State may elect to seek the substitute penalty as set forth in this
7 section against a person who, after having been at least two times convicted of
8 a felony crime of violence, is convicted of a third felony crime of violence.

9 (c) If the State seeks a substitute penalty for a felony crime of violence, it
10 shall give notice to the defendant by filing an information seeking the penalty
11 contained in this section.

12 (d) A person charged under this section shall be sentenced upon conviction
13 of such third or subsequent offense to imprisonment of not less than three
14 years, up to and including life.

15 (e) The three-year minimum term of imprisonment provided by this section
16 shall be served and shall not be suspended, deferred, or served as a supervised
17 sentence. The defendant shall not be eligible for probation, parole, furlough,
18 or any other type of early release until the expiration of the three-year term of
19 imprisonment.

20 (f) For the purposes of this section, multiple convictions that arise out of
21 the same criminal transaction shall be treated as one conviction.

1 Sec. 2. 13 V.S.A. § 1028 is amended to read:

2 § 1028. ASSAULT OF PROTECTED PROFESSIONAL; ASSAULT WITH
3 BODILY FLUIDS

4 (a)(1) A person convicted of a simple ~~or aggravated~~ assault against a
5 protected professional as defined in subdivision (d)(1) of this section while the
6 protected professional is performing a lawful duty, or with the intent to prevent
7 the protected professional from performing ~~his or her~~ the professional's lawful
8 duty, in addition to any other penalties imposed under sections 1023 and 1024
9 of this title, shall:

10 ~~(1)(A)~~ for the first offense, be imprisoned not less than 90 days and
11 not more than one year or fined not more than \$2,500.00, or both;

12 ~~(2)(B)~~ for the second offense and each subsequent ~~offenses~~ offense,
13 be imprisoned not less than one year and not more than 10 years or fined not
14 more than \$5,000.00, or both.

15 (2) A person convicted of aggravated assault against a protected
16 professional as defined in subdivision (d)(1) of this section while the protected
17 professional is performing a lawful duty, or with the intent to prevent the
18 protected professional from performing the professional's lawful duty, in
19 addition to any other penalties imposed under sections 1023 and 1024 of this
20 title, shall be imprisoned not less than two years and not more than seven
21 years, fined not more than \$10,000.00, or both.

1 (b)(1) No person shall intentionally cause blood, vomitus, excrement,
2 mucus, saliva, semen, or urine to come in contact with a protected professional
3 while the ~~person~~ professional is performing a lawful duty.

4 (2) A person who violates this subsection shall be imprisoned not more
5 than one year or fined not more than \$1,000.00, or both.

6 (c) In imposing a sentence under this section, the court shall take into
7 consideration whether the defendant was a patient at the time of the offense
8 and had a psychiatric illness, the symptoms of which were exacerbated by the
9 surrounding circumstances, irrespective of whether the illness constituted an
10 affirmative defense to the charge.

11 (d) As used in this section:

12 (1) "Protected professional" ~~shall mean~~ means a law enforcement
13 officer; a firefighter; a health care worker; an employee, contractor, or grantee
14 of the Department for Children and Families; or any emergency medical
15 personnel as defined in 24 V.S.A. § 2651(6).

16 (2) "Health care facility" ~~shall have~~ has the same meaning as defined in
17 18 V.S.A. § 9432(8).

18 (3) "Health care worker" means an employee of a health care facility or
19 a licensed physician who is on the medical staff of a health care facility who
20 provides direct care to patients or who is part of a ~~team-response~~ team response
21 to a patient or visitor incident involving real or potential violence.

1 (e) This section shall not apply to an individual under 18 years of age
2 residing in a residential rehabilitation facility.

3 Sec. 3. 13 V.S.A. § 5321 is amended to read:

4 § 5321. APPEARANCE BY VICTIM

5 (a) The victim of a crime has the following rights in any sentencing
6 proceedings concerning the person convicted of that crime, or in the event a
7 proposed plea agreement filed with the court recommends a deferred sentence,
8 at any change of plea hearing concerning the person charged with committing
9 that crime:

10 (1) to be given advance notice by the prosecutor's office of the date of
11 the proceedings; and

12 (2) to appear, personally, to express reasonably ~~his or her~~ the victim's
13 views concerning the crime, the person convicted, and the need for restitution.

14 ~~(b) The change of plea hearing or sentencing shall not be delayed or voided~~
15 ~~by reason of the failure to give the victim the required notice or the failure of~~
16 ~~the victim to appear~~ Upon the request of a victim of a listed crime, prior to the
17 acceptance by the court of a plea of a defendant pursuant to a proposed plea
18 agreement, the prosecutor shall provide such victim with the terms of the
19 proposed plea agreement in writing. If the prosecutor's office is unable to
20 notify the victim, the prosecutor shall sign a statement indicating such and the
21 attempts that were made to comply with this subsection. If the terms of the

1 proposed plea agreement provide for a term of imprisonment that is more than
2 two years or a total effective sentence of more than a two-year term of
3 imprisonment, the prosecutor's office shall indicate:

4 (1) the maximum period of imprisonment that may apply to the
5 defendant;

6 (2) whether the defendant may be eligible to earn risk reduction credits;
7 and

8 (3) whether the defendant may be eligible to apply for release on
9 probation, furlough, or parole.

10 (c) In accordance with court rules, at the sentencing or change of plea
11 hearing, the court shall ask if the victim is present and, if so, whether the
12 victim would like to be heard regarding sentencing or the proposed deferral of
13 sentencing. In imposing the sentence or considering whether to defer
14 sentencing, the court shall consider any views offered at the hearing by the
15 victim. The statement may include the victim's opinion of any plea agreement.

16 If the victim is not present, the court shall ask whether the victim has
17 expressed, either orally or in writing, views regarding sentencing or the
18 proposed deferral of sentencing and shall take those views into consideration in
19 imposing the sentence or considering whether to defer sentencing.

20 (d) At or before the sentencing hearing, the prosecutor's office shall
21 instruct the victim of a listed crime, in all cases ~~where~~ in which the court

1 imposes a sentence that includes a period of incarceration, that a sentence of
2 incarceration is to the custody of the Commissioner of Corrections and that the
3 Commissioner of Corrections has the authority to affect the actual time the
4 defendant shall serve in incarceration through earned time credit, furlough,
5 ~~work-release~~ work release, and other early release programs. In addition, the
6 prosecutor's office shall explain the significance of a minimum and maximum
7 sentence to the victim, explain the function of parole and how it may affect the
8 actual amount of time the defendant may be incarcerated, and inform the
9 victim of the maximum amount of earned time that the defendant could accrue
10 and that earned time only affects when a defendant is eligible for parole
11 consideration but does not necessarily result in the defendant's release.

12 (e) At or before a change of plea hearing where the plea agreement filed
13 with the court proposes a deferred sentence, the prosecutor's office shall
14 instruct the victim of a listed crime about the significance of a deferred
15 sentence and the potential consequences of a violation of conditions imposed
16 by the court. In addition, the prosecutor's office shall consult with the victim
17 concerning any proposed probation conditions prior to the hearing.

18 (f) The prosecutor's office shall use all reasonable efforts to keep the
19 victim informed and consult with the victim throughout the plea agreement
20 negotiation process in any case involving a victim of a listed crime.

1 Sec. 4. EFFECTIVE DATE

2 This act shall take effect on July 1, 2026.