

1 H.694

2 Introduced by Representatives Emmons of Springfield and Arsenault of

3 Williston

4 Referred to Committee on

5 Date:

6 Subject: Crimes and criminal procedure; sexual exploitation of a person under

7 the supervision of the Department of Corrections; sexual exploitation

8 of a minor

9 Statement of purpose of bill as introduced: This bill proposes to prohibit a
10 broader range of sexual activity between employees of the Department of
11 Corrections and persons under their supervision and for an adult who is in a
12 position of power over a minor.

13 An act relating to sexual exploitation

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

15 ~~Sec. 1. 13 V.S.A. § 3257 is amended to read:~~

16 ~~§ 3257. SEXUAL EXPLOITATION OF A PERSON UNDER THE~~

17 ~~SUPERVISION OF THE DEPARTMENT OF CORRECTIONS~~

18 ~~(a) A correctional employee, contractor, or other person providing services~~

19 ~~to offenders on behalf of the Department of Corrections or pursuant to a court~~

1 ~~order or in accordance with a condition of parole, probation, supervised~~
2 community sentence, or furlough shall not engage in a sexual act conduct as
3 defined in section 2821 of this title with:

4 (1) a person who the employee, contractor, or other person providing
5 services knows is confined to a correctional facility; or

6 (2) any offender being supervised by the Department of Corrections
7 while on parole, probation, supervised community sentence, or furlough,
8 where the employee, contractor, or other service provider knows or reasonably
9 should have known that the offender is being supervised by the Department,
10 unless the offender and the employee, contractor, or person providing services
11 were married, parties to a civil union, or engaged in a consensual sexual
12 relationship at the time of sentencing for the offense for which the offender is
13 being supervised by the Department.

14 (b) A person who violates subsection (a) of this section shall be imprisoned
15 for not more than five years or fined not more than \$10,000.00, or both.

16 Sec. 2. 13 V.S.A. § 3258 is amended to read:

17 § 3258. SEXUAL EXPLOITATION OF A MINOR

18 (a) No person shall engage in a sexual act conduct as defined in section
19 2821 of this title with a minor if:

20 ~~(1) the actor is at least 48 months older than the minor, and~~

1 ~~(2) the actor is in a position of power, authority, or supervision over the~~
2 minor by virtue of the actor's undertaking the responsibility, professionally or
3 voluntarily, to provide for the health or welfare of minors, or guidance,
4 leadership, instruction, or organized recreational activities for minors.

5 (b) A person who violates subsection (a) of this section shall be imprisoned
6 for not more than one year or fined not more than \$2,000.00, or both.

7 (c) A person who violates subsection (a) of this section and who abuses his
8 or her the person's position of power, authority, or supervision over the minor
9 in order to engage in a sexual act conduct as defined in section 2821 of this
10 title shall be imprisoned for not more than five years or fined not more than
11 \$10,000.00, or both.

12 Sec. 3. EFFECTIVE DATE

13 ~~This act shall take effect on passage.~~

Sec. 1. 13 V.S.A. § 3257 is amended to read:

§ 3257. SEXUAL EXPLOITATION OF A PERSON UNDER THE

SUPERVISION OF THE DEPARTMENT OF CORRECTIONS

(a) A correctional employee, contractor, or other person providing services to offenders on behalf of the Department of Corrections or pursuant to a court order or in accordance with a condition of parole, probation, supervised community sentence, or furlough shall not engage in a sexual act as defined in

section 3251 of this title or sexual conduct as defined in section 2821 of this title with:

(1) a person who the employee, contractor, or other person providing services knows is confined to a correctional facility; or

(2) any offender being supervised by the Department of Corrections while on parole, probation, supervised community sentence, or furlough, where the employee, contractor, or other service provider knows or reasonably should have known that the offender is being supervised by the Department, unless the offender and the employee, contractor, or person providing services were married, parties to a civil union, or engaged in a consensual sexual relationship at the time of sentencing for the offense for which the offender is being supervised by the Department.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 2. 13 V.S.A. § 3258 is amended to read:

§ 3258. SEXUAL EXPLOITATION OF A MINOR

(a) No person shall engage in a sexual act as defined in section 3251 of this title or sexual conduct as defined in section 2821 of this title with a minor if:

(1) the actor is at least 48 months older than the minor; and

(2) the actor is in a position of power, authority, or supervision over the minor by virtue of the actor's undertaking the responsibility, professionally or voluntarily, to provide for the health or welfare of minors, or guidance, leadership, instruction, or organized recreational activities for minors.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than one year or fined not more than \$2,000.00, or both.

(c) A person who violates subsection (a) of this section and who abuses ~~his~~ ~~or her~~ the person's position of power, authority, or supervision over the minor in order to engage in a sexual act as defined in section 3251 of this title or sexual conduct as defined in section 2821 of this title shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 3. 13 V.S.A. § 3259 is amended to read:

*§ 3259. SEXUAL EXPLOITATION OF A PERSON WHO IS BEING
INVESTIGATED, DETAINED, ARRESTED, OR IS IN THE
CUSTODY OF A LAW ENFORCEMENT OFFICER*

(a) No law enforcement officer shall engage in a sexual act as defined in section 3251 of this title or sexual conduct as defined in section 2821 of this title with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another law enforcement officer. For purposes of

this section, “detaining” and “detained” include a traffic stop or questioning pursuant to an investigation of a crime.

(b)(1) No law enforcement officer shall engage in a sexual act as defined in section 3251 of this title or sexual conduct as defined in section 2821 of this title with a person whom the officer:

(A) is investigating pursuant to an open investigation;

(B) knows is being investigated by another law enforcement officer pursuant to an open investigation; or

(C) knows is a victim or confidential informant in any open investigation.

(2) This subsection shall not apply if the law enforcement officer was engaged in a consensual sexual relationship with the person prior to the officer’s knowledge that the person was a suspect, victim, or confidential informant in an open investigation.

(c) A person who violates subsection (a) or (b) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 3a. VERMONT SENTENCING COMMISSION; DEFINITIONS;

SEXUALLY BASED OFFENSES

(a) The Vermont Sentencing Commission shall review definitions in 13 V.S.A. chapters 59 (lewdness and prostitution), 64 (sexual exploitation of

children), and 72 (sexual assault) for the purpose of updating and harmonizing the definitions as they are used in those chapters. As part of the review, the Commission shall, in particular, consider the definitions of “sexual conduct” as defined in 13 V.S.A. § 2821 and “sexual act” as defined in 13 V.S.A. § 3251.

(b) The Commission shall report its recommendations for legislative consideration to the Senate and House Committees on Judiciary on or before December 1, 2024.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.