

1 H.183

2 Representative Colburn of Burlington moves that the bill be amended as  
3 follows:

4 First: By striking out Sec. 1 in its entirety and inserting in lieu thereof the  
5 following:

6 Sec. 1. 13 V.S.A. § 3251 is amended to read:

7 § 3251. DEFINITIONS

8 As used in this chapter:

9 \* \* \*

10 (3) “Consent” means words or actions by a person indicating a knowing  
11 or voluntary agreement to engage in a sexual act.

12 \* \* \*

13 (10) “Incapable of consenting” means the person:

14 (A) is incapable of understanding the nature of the conduct at issue;

15 (B) is physically incapable of declining participation in, or

16 communicating unwillingness to engage in, the conduct at issue; or

17 (C) lacks the mental ability to make or communicate a decision about

18 whether to engage in the conduct at issue.

19 (11) “Developmental disability” has the same meaning as in 18 V.S.A.

20 § 9302.

21 (12) “Psychiatric disability” has the same meaning as in 1 V.S.A. § 147.

1        Second: In Sec. 3, by striking subdivision (6) and inserting in lieu thereof  
2 the following:

3            (6) ~~a~~ A person shall be deemed to have acted without the consent of the  
4 other person where the actor:

5            (A) ~~knows~~ knew or reasonably should have known that the other  
6 person ~~is~~ was mentally incapable of understanding the nature of consenting to  
7 the sexual act or lewd and lascivious conduct; ~~or~~

8            (B) ~~knows~~ knew or reasonably should have known that the other  
9 person ~~is~~ was not physically capable of resisting, or declining consent to, the  
10 sexual act or lewd and lascivious conduct; ~~or~~

11            (C) ~~knows~~ knew or reasonably should have known that the other  
12 person ~~is~~ was unaware that a sexual act or lewd and lascivious conduct ~~is~~ was  
13 being committed; or

14            (D) ~~knows that the other person is was mentally incapable of~~  
15 ~~resisting, or declining consent to, the sexual act or lewd and lascivious~~  
16 ~~conduct, due to a mental condition or a psychiatric or developmental disability~~  
17 ~~as defined in 14 V.S.A. § 3061~~ knew or reasonably should have known that the  
18 other person was incapable of consenting to the sexual act or lewd and  
19 lascivious conduct with the actor because the person was substantially  
20 impaired by alcohol, drugs, or other intoxicants.

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