Vermont Network Against Domestic Violence and Sexual Assault
End of Session Legislative Update - 2004

Bills That Passed This Session and Are Now Law

Act 70 (formerly H.472) – Executive Branch Fees
A.K.A. the Adjusted 2004 Fee Bill – includes a provision that was in H.550 (which the Network supported) to raise witness fees and travel expenses to $30.00 per day and mileage reimbursement to the rate allowed state employees. (effective 3/1/04)

Act 72 (formerly H.171) – College Trust Fund for Students in SRS Custody
This act provides $25,000 to be administered by VSAC as a trust fund to provide college grants for students who do not have parental support and are or have been under the custody of the commissioner of social and rehabilitation services, and who are accepted to attend Vermont colleges. (effective 7/1/04, expires 7/1/08)

Act 73 (formerly S.255) – Access to Juvenile Proceedings
This law provides victims of delinquent acts increased access to juvenile proceedings and to information about the outcome. This is the bill that passed the House and Senate last year (S.114), was amended in conference committee and then vetoed by the Governor. The new version is the same as the one agreed to last year, without the additional pieces that the Governor objected to (the conference committee amendments weren't related to the parts of the bill we had worked on). The law also prohibits defendants who cannot meet bail from harassing or causing to be harassed a victim or potential witness. (effective 3/1/04)

Act 79 (formerly H.590) – Open containers of an Alcoholic Beverage in a Restaurant
This law requires the department of liquor control to change its rules to permit a consumer at a restaurant, cabaret or club to carry two open containers of alcoholic beverages at one time and, more importantly, it allows a patron to maintain control over her or his open container of alcoholic beverages at all times while on the licensed premises. While the first part of the bill is not of particular concern to the Network, the second section is very important in the ongoing effort to prevent drug-facilitated sexual assault in Vermont bars and clubs. Act 79 overturns an antiquated - and now dangerous - rule banning patrons from bringing their drinks onto the dance floor. This outdated rule has unfortunately resulted in patrons leaving drinks behind when they head to the dance floor, making them targets for perpetrators of drug-facilitated sexual assault. This bill is an important step in giving patrons a little more control over their drinks and, in turn, their safety. (effective 7/1/04)

Act 88 (formerly H.498) – Advertisement of change of name
This law, which the Network supported, repeals the requirement of publication of a change of name. In order to legally change one’s name in Probate Court, current law requires the applicant to publish her or his name change in the paper for three weeks. Not only is this expensive, it’s potentially dangerous for domestic or sexual violence or stalking survivors who are changing their name in order to flee a perpetrator. This is a relatively minor change that could be very important for some survivors. (effective 7/1/04)
Act 89 (formerly H.657) – Do-not-call/Prohibited telephone solicitations
This law makes technical changes to bring Vermont’s “do-not-call” legislation into compliance with the Federal do-not-call list. This list, and Vermont’s laws, specifically exempt “telephone calls made by or on behalf of a tax-exempt organization, an organization incorporated as a nonprofit organization with the state of Vermont, or an organization in the process of applying for tax-exempt status or nonprofit status.” This means that the do-not-call list does not apply to non-profits who are making fundraising phone calls (such as phone-a-thons). Note from Katherine Long at VANPO: many people are not aware of this nonprofit exemption and may object to permitted calls if they are on the do-not-call list.  (effective 4/7/04)

Act 91 (formerly H.113) – Harassment in schools
Clarifies and expands the definition of harassment to include racial harassment and harassment of other protected categories; requires schools to designate employees to receive all harassment complaints; requires schools to commence an investigation within one day of filing of a written complaint and conclude any determination within five days, and all internal reviews of decisions must be completed within thirty days; allows a student to request an independent review of the school’s investigation and determination; and requires schools’ disciplinary plans to include a description of misconduct which doesn’t rise to the level of harassment.  (effective 7/1/04)

Act 92 (formerly S.302) – Restitution
Clarifies that the center for crime victim services has the authority to collect and enforce restitution ordered by a court before July 1, 2004, and provides other technical fixes to the restitution bill that passed last year. Also permits law enforcement officers to be eligible for the crime victim compensation program.  (effective 4/13/04)

Act 110 (formerly H.642) – Charitable Solicitations
As introduced, this bill would have created a private right of action against charities engaging in deceptive conduct. The bill as signed into law is just a small component of the original bill; it allows the Attorney General to require paid fundraisers to file their forms and materials electronically.  (effective 5/11/04)

Act 117 (formerly H.629) – Bullying Prevention Policies
Defines bullying as “any overt act or combination of acts directed against a student by another student or group of students and which: (A) is repeated over time; (B) is intended to ridicule, humiliate, or intimidate the student; and (C) occurs during the school day on school property, on a school bus, or at a school-sponsored activity, or before or after the school day on a school bus or at a school-sponsored activity.” Also requires the commissioner of education to develop and distribute to all schools a model plan on student discipline to address bullying in schools. The plan must include many components, including a statement that bullying is dangerous and disrespectful and won’t be tolerated; enabling students to anonymously report bullying; requiring staff who witness or hear of bullying to report it to administrators; requiring administrators to investigate, inform the parent/guardian of the accused student and inform the victim’s parent/guardian of action taken; and requiring schools to collect data on incidents of bullying and to make those numbers available to the commissioner and public.  (effective 7/1/04)
Act 120 (formerly S.100) – Humane and Proper Treatment of Animals
This law defines adequate food, water and shelter for animals; expands the definition of aggravated cruelty to animals to include intentionally, maliciously, and without just cause torturing, mutilating, maiming, or cruelly beating an animal; allows the court to order a psychiatric or psychological evaluation and treatment for any juvenile who is adjudicated delinquent based upon an act of cruelty to animals or aggravated cruelty to animals; and amends the process for forfeiture of an animal to the state. (effective 7/1/04)

Act 157 (formerly S.227) – Sex Offender Registry and Community Notification
This bill has several parts. It makes several technical fixes to the sex offender registry and expands law enforcement’s ability to release information on registered sex offenders. It expands public access to the sex offender registry through the dept. of public safety and local law enforcement by allowing the general public access to information about registered sex offenders who fall into certain categories. It also allows members of the public who can articulate “a concern about the behavior of a specific person” regarding that requestor’s safety or the safety of someone else, or those requestors who have reason to believe that a specific person may be a registered sex offender and can articulate a specific safety concern, to have access to the registered sex offender’s physical description, date of birth, date and nature of offense, whether the offender complied with recommended treatment and whether there is an outstanding warrant for their arrest. The bill also requires that a log be maintained with information (accessible only to criminal justice agencies) about people requesting information on sex offenders.

The bill also allows for electronic (internet) posting, including photos, of certain categories of sex offenders and allows requestors on the internet site to search by an offender’s name or county of residence. It also provides immunity from liability for DPS, DOC, and law enforcement who notify communities about sex offender registrants who are being released; and creates a study committee to study many issues including internet posting, civil commitment and electronic monitoring of sex offenders, fingerprint-supported records policies and more. The bill also voids the Vermont crime information center’s “no print, no record” policy, and prohibits the judiciary from posting criminal or family court records online before June 1, 2005. In a last minute conference committee decision, legislators also added in a section to provide automatic sealing of juvenile and adult court diversion records two years after successful completion of the diversion program. The bill also contains an appropriation for public safety to provide training on the registry and community notification and to implement the website, and directs the Center for Crime Victim Services and the Vermont Network Against Domestic Violence and Sexual Assault to provide community education about sexual violence and sex offenders. (eff. 7/1/04)

Act 159 (formerly H. 35) – Child support; child custody; visitation
This law is a combination of H.35 and H.70 and has several sections. It prohibits the court from ordering a noncustodial parent to pay child support arrears if payment of the arrears would put the noncustodial parent’s income below the self-support reserve (although arrears remain the responsibility of the obligor). It requires child support orders to advise parents of their right to file for a modification of the order if they become unemployed or experience a substantial drop in income and reminds parties to an order that the order stands unless modified by the court.
Act 159 continued…
If a custodial parent refuses visitation to a noncustodial parent, the new law requires the court to enforce those rights, including restoration of the amount of visitation that was denied, unless the court finds that doing so is not in the best interests of the child. It also establishes that a custodial parent’s refusal of visitation rights to the noncustodial parent without good cause may be grounds for modifying the parent-child contact order. The bill as passed also states that good cause can include “a pattern or incidence of domestic or sexual violence, a history of failure to honor the visitation schedule agreed to in the parent-child contact order, or reasonable fear for the child or the custodial parent’s safety”. The law also creates a surcharge on past-due child support; creates civil penalties for employers who withhold child support and fail to forward it to the child support registry within 30 days; and makes other technical changes to the child support laws. The bill also authorizes the House Judiciary Committee to meet out of session to study issues relating to family court, child support, child custody, and any other necessary issues, and report back to the legislature by Dec. 2005. (most sections effective 7/1/04)

Act 142 (formerly H.79) – Prohibiting Disclosure of Communications Made to Interpreters for Hearing Impaired Persons
This bill prohibits interpreters for people who are Deaf or hearing impaired—whether “qualified interpreters” or not—from disclosing any communication made to them or any information they obtain while interpreting for a hearing impaired person. The prohibition does not apply if the interpreter’s services were sought or obtained to aid in the planning or commission of a crime or fraud. The bill also creates a study committee to consider whether a similar prohibition should be implemented for foreign language interpreters. (effective 7/1/04)

Act 145 (formerly H.528) – Term Probation
In response to concerns about extremely high probation caseloads, this bill sets a default term of probation for misdemeanors at two years unless the court, in its sole discretion, specifically finds that the interests of justice require a longer or an indefinite period of probation. It allows a probation officer to petition the court to extend the sentence if the offender has not completed programming required in their conditions. Other sections of the bill require the court to defer to the commissioner of corrections regarding the facility in which a minor shall be detained, and remove the requirement that a juvenile must have been adjudicated delinquent or convicted of a crime in the past in order to be treated in court as a youthful offender. (eff. date varies)

Act 122 (formerly H.768) – Appropriations for State Government
The “Big Bill”, or appropriations bill, contains several provisions of interest to Network Programs and related organizations. It includes an additional $50,000 appropriation for Network Programs; $75,000 for the four child advocacy centers in the state; $100,000 for grants to supervised visitation centers and $10,000 for an evaluation of supervised visitation centers. It also creates a supervised visitation advisory board with representatives of AHS, SRS, the office of child support, the Network and the Center for Crime Victim Services. The advisory board will “assist in the design of a program evaluation for all supervised visitation programs in Vermont prior to the allocation of fiscal year 2005 funding, make decisions regarding the allocation of fiscal year 2005 funding to supervised visitation programs in Vermont, and study and report to the general assembly on January 1, 2005 their recommendation as to the most appropriate state agency to provide oversight and administer state funding for supervised
Budget bill continued…
visitation programs in Vermont, and develop standards of service to ensure high quality services
to families utilizing supervised visitation programs in Vermont.”

The budget bill also provides four new staff positions for the Prisoners’ Rights office. It also
allocates $50,000 for a grant to the Vermont center for justice research at Norwich University to
carry out a study and report (to be submitted by June 1, 2005) on racial and ethnic involvement
in Vermont’s criminal justice system.

H.768 as passed also creates a Law Enforcement Advisory Board to “advise the commissioner of
public safety, the governor, and the general assembly on issues involving the cooperation and
coordination of all agencies which exercise law enforcement responsibilities…. The board shall
undertake an ongoing formal review process of law enforcement policies and practices with a
goal of developing a comprehensive approach to providing the best services to Vermonters,
given monies available. The board shall also provide educational resources to Vermonters about
public safety challenges in the state.”

The bill also contains provisions related to the state forensics lab: it directs the commissioner of
buildings and general services and the commissioner of public safety to provide a plan for
completion of a new public safety forensics lab by fiscal year 2008. This plan is to be provided
to the general assembly by January 15, 2005.

The Judiciary section of the bill requires the court administrator’s office to propose ways to
reduce the felony backlog, including a proposal of “acceptable standards” for case backlogs in
the courts.

Tobacco fund money in the budget is allocated for many projects, including a statewide
substance abuse and youth mentoring project, a health education and violence prevention
curriculum at Prevent Child Abuse Vermont, and a project of the Girl Scouts to assist girls with
incarcerated mothers.

The budget creates a new position of Juvenile Justice Director, appointed by the governor and
reporting to the secretary of AHS. There is also language pertaining to the reorganization of AHS
and its newly reorganized departments: the department of corrections, the department for
children and families, the department of health, the department of aging and independent living,
the human services board and the office of Vermont health access. The budget also contains
several provisions relative to state provision of mental health services, including the creation of a
legislative mental health oversight committee.

The budget also creates a criminal code study committee to review all state criminal laws
throughout the statutes and make recommendations to the general assembly for reasonable
necessary updates to the criminal code. This committee will present findings and
recommendations by December of 2006.
Bills we were following that didn’t make it this session
Vermont’s legislative session runs on a two year cycle (a biennium) from January through May for two consecutive years. May 20th, 2004 brought the end of this biennium, so all bills that did not pass are now officially defunct. However, many of these bills will likely be re-introduced in the next biennium.

Senate Bills

S.17 – Vulnerable Adults
Proposed to move the criminal aspects of abuse and exploitation of vulnerable adults from their current location in Title 33 to Title 13 where they would be a more visible component of the criminal code. A whittled down version passed the Senate and died in the House Judiciary committee. The leadership of the House and Senate Judiciary Committees have all assured us that this will be one of the first bills they introduce next year. Network supported.

S.229 – Domestic assault
Proposed to provide an enhanced criminal penalty if a person commits a domestic assault in the presence of a child under the age of 16; states that the presence of a child shall be an aggravating factor when determining sentencing for first or second degree domestic assault; and makes children who have witnessed a domestic assault eligible for victims’ services through the state. Never taken up. Network opposed in this form.

House Bills

H.36 – Deferred Sentences
In a nutshell, the bill as passed the House allowed judges (“the court”) to issue a deferred sentence without the consent of the state’s attorney. But, in cases where the respondent is charged with a listed crime, “the court may only defer sentencing over the objection of the state’s attorney for a period of no less than five years”. Died in the Senate. Network opposed.

H.124 – Crimes; domestic assault
This bill proposed to: (1) clarify that strangulation constitutes “serious bodily injury” under the domestic assault statute; (2) increase the penalty for domestic assault; (3) increase the penalty for domestic assault against a child under 10 from a misdemeanor to a felony; (4) create a new misdemeanor crime for interfering with a family or household member’s attempt to receive emergency assistance; and (5) permit a victim’s statements made immediately after an assault to be admissible at trial under certain circumstances. Bill was never taken up. Network supported sections (1) and (4) and opposed section (5).

H.131 – Sexual Exploitation of an Inmate
Proposed to prohibit an employee of the department of corrections from knowingly engaging in a sexual act with a person under the supervision of the department. Never taken up. Network supported a stronger version.
H.132 – Consensual Sex Between Teenagers
Proposed to decriminalize consensual sex with a person under the age of 16 if the other person is within three years of such person’s age.

and…

H.574 – Reducing the penalty for consensual sex between teenagers who are close in age
Proposed to reduce the criminal penalty for consensual sex between teenagers who are within 30 months of one another’s age from a first offense felony to a misdemeanor. The House Judiciary Committee considered adding H.132 or H.574 onto the sex offender registry bill, but in the end neither went anywhere. *Network expressed concerns about the ramifications of making consent an element of the crime of sexual assault for victims under the age of 16.*

H.136 – Parental Notification Prior to Performing an Abortion on an Unemancipated Minor
This bill proposes to require that a parent or guardian of an unemancipated minor receive written notice at least 48 hours before an abortion is performed on the minor. Never taken up. *Network opposed.*

H.203 – Emotional Abuse
Proposes to allow a person to obtain a relief from abuse order based upon emotional abuse, defined as “the willful infliction of mental or emotional anguish by threats, humiliation, intimidation, or other abusive conduct which is intended to demean, frighten, intimidate, or isolate”. Never taken up.

H.506 – Order against stalking
Proposed to establish a procedure for a person to obtain a court order to prevent another person from engaging in stalking behavior. The process for obtaining a stalking protection order would be based upon the current procedural system for relief from abuse orders, and the standard for obtaining one would have been less than the standard for criminal stalking. This is a bill that the Center and Network were hoping for, but as drafted it included only a civil contempt penalty for violating an order, rather than a criminal penalty. Never taken up.

H.552 – Emergency contraception
Proposed to permit a pharmacist to dispense emergency contraception without a prescription in accordance with a protocol developed by the pharmacist and a physician or other prescriber. Never taken up. *Network supported.*

H.561 – Internal security and public safety; Vermont criminal information center
Proposed to provide the public with access to anyone’s criminal history record for any purpose; to require the fingerprinting of defendants charged with misdemeanors; to allow the state to keep the fingerprint cards of persons whose charges do not end in conviction; to exempt entities who provide services to vulnerable populations from the record check fee; to ratify the National Crime Prevention and Privacy Compact; and to amend various statutes which require expungement of investigative files and criminal records to permit the sealing and electronic partitioning of those files and records, making them available to criminal justice agencies but not the public. *Network supported.*
H.610 – Psychological trauma survivors
Proposed to create a specialist in the agency of human services to ensure that psychological trauma survivors have access to quality mental health and support services administered by the agency. Bill never went anywhere, but Trauma Specialist position has been created within the reorganization of AHS. *Network supported.*

H.661 – Economic safety and security for domestic violence survivors
Proposed to provide economic and personal security for survivors of domestic violence, sexual assault and stalking by providing them with unemployment compensation benefits when they are forced to leave employment because of the violence. *The Network supported this bill.* It was defeated in the House Commerce Committee on a straight party line vote of 6 to 5, then narrowly defeated again on the House floor by a vote of 73 to 65. Senator Hinda Miller also proposed the bill as an amendment on the Senate floor, but withdrew the amendment due to lack of support. *Network supported.*

H.724 – Accountability of Public Funds Received by Nonprofit Organizations
Proposed to authorize the state auditor to collect and review biennially audits or financial statements of Vermont nonprofit organizations that receive federal, state, and local funds. Never made it out of committee. *Network opposed in this form.*

H.730 – The Council on Domestic Violence and Batterer Intervention Programs
Proposed to create the council on domestic violence within the agency of human services; and to require programs offering batterer intervention services to be certified and meet rules adopted by the agency of human services’ council on domestic violence. Never taken up.

H.740 – Parent Coordinators and Child Welfare
Proposed to provide a process for the appointment and employment of a parent coordinator in actions in which parental rights and responsibilities have been adjudicated, but parent-child contact issues remain in dispute because of high conflict between the parents, domestic violence, substance abuse, or other factors that significantly impede resolution. The bill also proposed substantial revisions to the laws regarding the responsibilities of the department of social and rehabilitation services to protect and promote child welfare. Never taken up.

You can view the full text of any of these bills – and track the changes they went through - by going on the Legislative website:  http://www.leg.state.vt.us/ and selecting Legislative Information Database or Text of Bills and Other Legislative Documents.

From the Legislative home page you can also search for bills by sponsor or keyword, browse all the laws enacted this session, track legislative meeting schedules, and look up contact information for legislators.