Following is a list of laws passed during Vermont’s 2008 legislative session that impact victims and survivors of sexual and domestic violence and those who support them.

More information is available about any of these acts, or the many other bills that didn’t become law this session, on the state’s legislative website: www.leg.state.vt.us. You can also contact Sarah Kenney at the Network for more information or to be added to the Network’s legislative alert email list: sarahk@vtnetwork.org or 802-223-1302.

★ Act No.174/S.357: An Act Relating to Domestic Violence
This bill represents the culmination of more than a year’s worth of work by the Senate Judiciary Committee and contains several changes to criminal and civil laws regarding domestic violence, as well as a significant financial investment in prevention and victim services.

Criminal law changes
The bill makes several changes to the criminal penalties for domestic violence:

- increases the maximum penalty for domestic assault from 12 months to 18 months (13 VSA 1042);
- enhances the criminal statute addressing second degree aggravated domestic assault (13 VSA 1044) by removing the requirement that the crime must have caused bodily injury, expanding the list of court orders that the person violated in the course of committing the domestic assault, and including a conviction for violation of a protection order as a predicate offense;
- enhances the criminal statute pertaining to violation of an abuse prevention order (13 VSA 1030);
- creates a new crime of interfering with a victim’s attempt to access emergency services such as police assistance or medical attention (13 VSA 1031 - new);
- allows courts to consider at sentencing whether a domestic violence offense was committed in the presence of a child (13 VSA 1047 - new); and
- requires at least eight hours of training in domestic violence for all law enforcement officers in the state by 2010, with additional training required every two years (20 VSA 2365 - new).

Civil law changes
The bill also makes changes to civil law:
makes it easier for victims of domestic violence to obtain protection orders when the
defendant is incarcerated (15 VSA 1103);
allows for “constructive service” of abuse prevention orders, so if a defendant is present
in the courtroom for an APO hearing, the court can notify them on the record that
they’re considered to have been served (15 VSA 1105);
provides new guidelines for courts to use in determining how to set up safe visitation for
parents who have committed domestic violence (including use of supervised
visitation)(15 VSA 665a - new); and
allows custodial parents to file emergency requests with the court to modify visitation if
they fear for their safety or that of their child (15 VSA 668a).

Other changes
S.357 also:
- begins to address the issue of health care for victims of domestic violence by creating an
  exemption from the 12 month waiting period for eligibility for state health care
  programs for people who lost their health insurance as a result of domestic violence;
- creates a statewide Council on Domestic Violence with broad representation from state
  and community stakeholders in order to coordinate statewide responses to domestic
  violence, and gives the Council expansive authority and responsibility (15 VSA chapter
  21, subchapter 4, 1171-1173 – new);
- creates two study committees – one to examine the issue of housing discrimination
  against victims of domestic and sexual violence and one to look at the issue of bullying
  and harassment in schools, including cyberbullying. Both study committees are to
  report back to the legislature by December 15, 2008;
- authorizes the Department for Children and Families to conduct at least one domestic
  violence-specific pilot program using Emergency Assistance and General Assistance
  funds through the Division of Economic Services;
- contains a number of “housekeeping” technical fixes related to Stalking and Sexual
  Assault Protection Orders (12 VSA 5131 and 5134); the Lewd and Lascivious Conduct
  with a Child statute (13 VSA 2602); and empaneling of Special Investigation Units (33
  VSA 4917); and
- contains a provision that came from the 2006 Crime Victims Rights Study Committee – a
  change to allow victims of listed crimes to receive notice and opportunity to be heard at
  all Parole Board hearings for the offender in their case, even if the hearing is regarding
  parole for an unrelated crime (28 VSA 507).

Funding
Perhaps most importantly, this new law provides over $880,000 in new funding to provide
prevention programs and direct services to victims of domestic and sexual violence statewide.
This vitally important funding is raised by increasing surcharges on fines for people who break
the law, and by increasing the state’s marriage and civil union license fee.

Effective Date: July 1, 2008
★ Act No.136/H.619: An Act Relating to Sexual Assault Nurse Examiners
This bill formally establishes Vermont’s Sexual Assault Nurse Examiner (SANE) program in statute. The SANE program has existed in Vermont since 1996, but has never had any official recognition or authority in Vermont law. Last year the legislature established a Sexual Assault Study Committee to review the SANE program and to make recommendations to the legislature. H.619 reflects some of the recommendations from the study committee: it establishes the program in statute; creates a formal SANE Advisory Board with the authority to certify and decertify sexual assault nurse examiners; and formally creates the position of SANE Clinical Coordinator, which will be a contracted position through the Vermont Network Against Domestic and Sexual Violence (33 VSA chapter 3, subchapter 2, 321-324 – new).

Effective Date: July 1, 2008

★ Act No.173/S.112: An Act Relating to Victims Compensation
This bill makes changes to the state Victims’ Compensation program. It allows the compensation program to reimburse health care facilities and providers at 70% of cost, which is equivalent to the rate at which many major insurers reimburse for services (Victims’ Compensation is currently one of the only entities reimbursing health care providers at 100% of cost) (13 VSA 5356). It also prohibits health care providers from submitting a victim’s bill for debt collection services until after the Victims’ Compensation program has determined whether or not the bill qualifies for compensation payment (13 VSA 5366 – new). And in response to the recommendations of the 2007 Sexual Assault Study Committee, the bill changes the statute to allow victims of sexual assault who receive a sexual assault examination to receive Victims’ Compensation funding for mental health counseling services, even if they haven’t reported the assault to police (under current law victims can only receive compensation funding if law enforcement has found probable cause) (32 VSA 1407).

Effective Date: July 1, 2008

★ Act No.102/S.222: An Act Relating to the Safe Haven Exception for the Crime of Abandonment
This bill amends the “Safe Haven” law that provides exemption from criminal liability for people who abandon newborn babies at approved locations. The law passed in 2005; this bill makes it clear that the person or facility that accepts babies under this law does not have to reveal the identity of the person who left the baby (if they know their identity), unless they suspect child abuse (13 VS 1303).

Effective Date: July 1, 2008

★ H.615: An Act Relating to Juvenile Judicial Proceedings
This bill is the culmination of a several year process, involving many stakeholders and chaired by Administrative Judge Amy Davenport, to re-write the entire section of law pertaining to juvenile judicial proceedings (currently Title 33, Chapter 55), including CHINS (child in need of care and supervision) proceedings and the youthful offender statutes. The new law will be in three separate chapters: Chapter 51, with general provisions about juvenile proceedings; Chapter 52, pertaining to delinquency proceedings including juvenile probation and youthful offender statutes; and Chapter 53, governing CHINS proceedings.

Aside from reconstructing the law into a more logical sequence, the bill also makes some significant changes to the way CHINS and juvenile delinquency cases are handled by DCF and the Family Courts. The rights of crime victims in these proceedings are generally unchanged, except that the law will now allow victims of crimes committed by juveniles to receive up-front payment for court-ordered restitution from the state’s Restitution Fund.

Of particular interest to the Network are two provisions: a new protective order that a party to a juvenile proceeding (including DCF) can obtain from the court to protect a child (33 VSA 5115 – new); and a section directing DCF to develop a way to insures that a victim and perpetrator of sexual assault are held separately if both are lodged at a juvenile detention facility (this change was originally introduced in H.712) (33 VSA 5802 – new).

The new protective order would allow any party in a juvenile proceeding to ask the Family Court to issue an order restraining or controlling the behavior of a person if the court finds that the person’s behavior is detrimental or harmful to the child. These orders can be issued on an emergency basis ex parte (without a hearing), but a hearing must be held within 10 days. If the person violates a provision of the protective order that pertains to contact with the child, they can be arrested and prosecuted under the Violation of an Abuse Prevention Order statute (13 VSA 1030), just like a violation of an APO or an Order Against Stalking or Sexual Assault.

Effective Date: January 1, 2009

★ **H.635: An Act Relating to Reports of Child Abuse or Neglect**

This bill makes significant changes to the way Vermont’s Department for Children and Families will respond to reports of child abuse and neglect.

**Investigation of abuse and neglect**

This bill establishes a “differential response” for the department to employ when someone calls about suspected abuse. This new system will allow the department to have two tracks for working with families: an investigation track, similar to what happens now where an investigation takes place and a report is substantiated or not; and an assessment track, for situations where the reported behavior might not rise to the level of abuse or neglect, but where the family could benefit from support and resources to prevent abuse or neglect from happening in the future. Assessment services would be entirely voluntary, and would not result in a substantiation or placement of anyone’s name on the child protection registry. A
differential response is especially important in dealing with families where one parent is committing domestic violence, since there may not technically be child abuse happening, but there may be important community resources and supports that will help the non-offending parent and children access safety. This new system should help DCF work more effectively with families in this situation (33 VSA 4915, 4915a and 4915b – a and b are new).

**Child Abuse Registry**
Additionally, H.635 makes changes to the Child Abuse Registry, now renamed the Child Protection Registry. The registry will now be tiered, with different levels to reflect the severity of the abuse or neglect that the person perpetrated. This change should help make the registry more accurately reflect the risk that a person might pose to children, since the registry is primarily used by employers to screen potential employees who would be working with children or vulnerable populations (33 VSA 4916).

The bill also allows people currently on the registry (prior to July 1, 2009) to petition the DCF Commissioner to expunge their name from the registry if they have been on the registry for more than three years. A process is established for the Commissioner to review those requests. For people whose names will be added to the registry after July 1, 2009, they will be able to petition to have their names removed after they have been on the registry for seven years (33 VSA 4916c).

**Rulemaking**
The bill directs the Department of Children and Families to establish rules governing how all of these changes will happen within the department.

**Other changes**
H.635 also makes a number of other changes, including expanding the list of people mandated to report suspected child abuse and neglect to include more individuals who are contracted to work in schools (33 VSA 4913); mandating that DCF publish an annual report of statistics and trends (33 VSA 4923 – new); and directing the department to develop policies for caseloads for social workers that identify a target caseload of no more than 12 families per social worker.

Effective Date: Changes to mandated reporting take effect January 1, 2009; changes to the administrative review process for challenging a substantiation take effect September 1, 2008; all other sections take effect either on July 1, 2008, or whenever final rules have been officially adopted by the Department of Children and Families (the bill directs that rules must be adopted by July 1, 2009 at the latest).

★ **H.859: An Act Relating to Increasing Substance Abuse Treatment, Vocational Training, and Transitional Housing for Offenders in Order to Reduce Recidivism, Increase Public Safety, and Reduce Corrections Costs** (Corrections Reform Bill)
This is another large bill that makes significant changes, this time to the state’s Corrections investment and infrastructure. The bill sets out a course for closing the Dale Correctional
Facility in Waterbury, which currently houses women offenders, converting the Southeast State Correctional Facility in Windsor into a work camp for male offenders, closing sections of the Northwest Correctional Facility in St. Albans and converting the remaining units to a women’s facility, and relocating the male offenders currently housed in St. Albans to other facilities both in and out of state.

Savings from these facility closings and restructuring will be reinvested in coming years into measures intended to prevent recidivism and keep nonviolent offenders out of prison. These programs include additional transitional housing for offenders, increased substance abuse treatment in DOC work camps and in the community, residential substance abuse treatment in the community, and increased vocational training.

H.859 also creates a new level of probation, called “administrative probation”, for offenders who have been convicted of one of a list of low-level misdemeanors. These offenders will be on a purely administrative form of probation and their conditions of probation will require only that they not be convicted of a new crime, that they register with their probation and parole office, notify the DOC of their address every month, and notify the DOC within 72 hours if law enforcement has found probable cause that they’ve committed a new crime (28 VSA 205(c) – new).

The bill also establishes caseload capacity limits for corrections officers based on the risk level of the offenders being supervised (28 VSA 105 – new); establishes a study to examine the feasibility of expanding drug courts statewide; directs the Joint Legislative Corrections Oversight Committee to investigate issues pertaining to children of incarcerated parents (an idea that was introduced in H.736); prohibits the state from incarcerating public inebriates beginning in 2011 (33 VSA 708a – new); and more.

Effective Date: July 1, 2008, except the prohibition on incarceration of public inebriates which takes effect on July 1, 2011

This sweeping housing bill contains many changes, including development of more affordable homeownership opportunities and rental units. More detail on the bill is available through the website of the Vermont Affordable Housing Coalition at [www.vtaffordablehousing.org](http://www.vtaffordablehousing.org).

Effective Date: July 1, 2008

★ Act No.165/S.246: An Act Relating to Electronic Access to Criminal and Family Court Records
This act prohibits the court from posting any District (criminal) or Family Court records for public access on the internet (except court schedules and court opinions) (12 VSA 5), and it
changes the way the state permits access to criminal history records through the Vermont Crime Information Center (VCIC) (20 VSA 2056c). Under existing law, certain employers are allowed access to criminal history information through VCIC. S.246 changes the law to allow the general public to access criminal history information (to include only conviction records from District Court) via the internet for a fee of $20, to be increased to $30 on July 1, 2010 (20 VSA 2063).

Effective Date: July 1, 2008

★ S.301: An Act Relating to Enhancing the Penalties for Assaulting a Law Enforcement Officer and to the Crime of Assault with Bodily Fluids
This bill adds emergency room personnel to the list of first responders covered by the statute that enhances the penalty for a crime of simple or aggravated assault if the assault is committed against a first responder (13 VSA 1028). It also creates a new misdemeanor offense (13 VSA 1028(b)) of intentionally causing a law enforcement officer to come in contact with bodily fluids, including mucus or saliva.

Effective Date: July 1, 2008

This act allows the court, upon motion of a parent, to extend child support payments for a child with a “significant physical, mental or developmental” disability up to the age of 22 (15 VSA 658(g) – new).

Effective Date: July 1, 2008; act sunsets on July 1, 2012 (automatic repeal unless further action is taken)

A.K.A. the budget or “the big bill”. In addition to the new funding contained in S.357, this year’s budget also contained some new funding for domestic and sexual violence and other victim services-related projects. The Restitution Special Fund contained a balance which will be spent down to fund a number of victim services initiatives.

$500,000 will be spent from the Restitution Fund over the next five years to make lump sum payments to victims of crime who are owed court-ordered restitution that pre-dates Vermont’s new restitution system that was established in 2004. The Restitution Unit at the Center for Crime Victim Services will develop rules to govern the distribution of funds.

Additionally, a number of other projects will receive funding this year from the Restitution Fund:
- $150,000 additional funding for Network Programs (this funding will continue in future years, but will come from the General Fund after FY09)
- $200,000 for supervised visitation centers (one-time funding)
- $50,000 for a SANE Program Clinical Coordinator (one-time funding)
- $25,000 for the Council on Domestic Violence (one-time funding)

Other highlights from the budget:
- $50,000 for certified batterers intervention programs
- $130,000 for sexual violence prevention through The Vermont Approach, administered by the Anti-Violence Partnership at UVM
- Creation of a Commission on Judicial Operation to examine operational expenses of the courts and to make recommendations about consolidation of court staff regionally and statewide, possible regionalization of court functions, use of technology to limit expenses, and other topics
- $30,000 for the VT Sentencing Commission’s recidivism rate analysis
- $54,000 from tobacco settlement funds for Project Against Violent Encounters for a statewide program for substance abuse prevention and mentoring for youth
- $143,000 from tobacco settlement funds for Lamoille County People in Partnership for wrap-around services for at-risk youth
- $14,000 grant to the VT Girl Scouts for a program to enable Girl Scouts and their siblings to visit their mothers who are in prison
- DCF is directed to evaluate the feasibility and potential cost for the department to perform criminal record checks on all applicants to state assistance programs in order to screen for outstanding arrest warrants
- $577,000 for DCF to provide families with mortgage or rental arrearage assistance, and language allowing DCF to extend assistance for up to 84 days (currently capped at 28 days)
- Expansion of DCF General Assistance pilot program to establish permanent flexibility for all district offices in expending GA funds
- $792,000 through DCF’s Office of Economic Opportunity for grants to community agencies for homeless assistance
- Language directing the Department of Corrections to pay for psycho-sexual evaluations as the court deems necessary, and directing DOC to include funds as necessary in its annual budget request
- Creation of a state Financial Literacy Trust Fund through the VT Treasurer’s Office.

Many, many thanks to the courageous victims and survivors who were willing to share their experience, pain and great ideas with legislators and policymakers. Your insights make a world of difference. Thanks also to the dedicated advocates and allies who comprise the Legislative Committee of the Vermont Network. Your dedication and wisdom help to make much better laws!