

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 95 entitled
3 “An act relating to jurisdiction over delinquency proceedings by the Family
4 Division of the Superior Court” respectfully reports that it has considered the
5 same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 33 V.S.A. § 5206 is added to read:

8 § 5206. CITATION OF 16- AND 17-YEAR-OLDS

9 (a)(1) If a child was over 16 years of age and under 18 years of age at the
10 time the offense was alleged to have been committed and the offense is not
11 specified in subsection (b) of this section, law enforcement shall cite the child
12 to the Family Division of the Superior Court.

13 (2) If, after the child is cited to the Family Division, the State’s Attorney
14 chooses to file the charge in the Criminal Division of the Superior Court, the
15 State’s Attorney shall state in the information the reason why filing in the
16 Criminal Division is in the interest of justice.

17 (b) Offenses for which a law enforcement officer may, but is not required
18 to, cite a child to the Family Division of the Superior Court shall include:

19 (1) 23 V.S.A. § 674 (driving while license suspended or revoked);
20 23 V.S.A. § 1091 (negligent operation); 23 V.S.A. § 1128 (accidents—duty to

1 stop); 23 V.S.A. § 1133 (eluding a police officer); and 23 V.S.A. § 1201
2 (driving under the influence).

3 (2) Fish and wildlife offenses that are not minor violations as defined by
4 10 V.S.A. § 4572.

5 (3) A listed crime as defined in 13 V.S.A. § 5301.

6 (4) An offense listed in subsection 5204(a) of this title.

7 (c) On or before March 1, 2016, each State’s Attorney shall adopt a written
8 protocol regarding his or her approach to the filing of charges against a child
9 that reflects the purposes of this chapter as identified in section 5101 of this
10 title.

11 Sec. 2. REPORT

12 The Executive Director of the Department for State’s Attorneys and
13 Sheriffs shall report to the House and Senate Committees on Judiciary on or
14 before April 1, 2016 regarding implementation of Sec. 1 of this act.

15 Sec. 3. 33 V.S.A. § 5234 is amended to read:

16 § 5234. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS
17 INVOLVING A LISTED CRIME

18 (a) The victim in a delinquency proceeding involving a listed crime shall
19 have the following rights:

20 (1) To be notified by the prosecutor’s office in a timely manner;

1 (A) when a delinquency petition has been filed, the name of the child,
2 and any conditions of release ordered for the child that are materially related to
3 the victim or intended to protect the safety of the victim;

4 (B) his or her rights as provided by law, information regarding how a
5 case proceeds through a delinquency proceeding, the confidential nature of
6 delinquency proceedings, and that it is unlawful to disclose confidential
7 information concerning the proceedings to another person;

8 (C) when a predispositional or dispositional court proceeding is
9 scheduled to take place and when a court proceeding of which he or she has
10 been notified will not take place as scheduled-; and

11 ~~(2)~~(D) To be notified by the prosecutor's office as to whether
12 delinquency has been found and disposition has occurred, including any
13 conditions ~~of~~ of release that are materially related to the victim or intended to
14 protect the safety of the victim and restitution relevant to the victim, when
15 ordered.

16 ~~(3)~~(2) To attend the disposition hearing and to present a victim's impact
17 statement, including a statement why restitution may be appropriate, at the
18 disposition hearing ~~in accordance with subsection 5233(b) of this title and to~~
19 be notified as to the disposition ~~pursuant to subsection 5233(d) of this title.~~
20 The Court shall consider the victim's statement when ordering disposition.

1 ~~(4)(3) Upon request, to~~ To be notified by the agency having custody of
2 the delinquent child before he or she is discharged from a secure or
3 staff-secured residential facility. The name of the facility shall not be
4 disclosed. An agency's inability to give notification shall not preclude the
5 release. However, in such an event, the agency shall take reasonable steps to
6 give notification of the release as soon thereafter as practicable. Notification
7 efforts shall be deemed reasonable if the agency attempts to contact the victim
8 at the address or telephone number provided to the agency in the request for
9 notification.

10 ~~(5) To obtain the name of the child in accordance with sections 5226~~
11 ~~and 5233 of this title. [Repealed.]~~

12 ~~(6) To be notified by the Court of the victim's rights under this section.~~
13 ~~[Repealed.]~~

14 (b) The prosecutor's office shall keep the victim informed and consult with
15 the victim through the delinquency proceedings.

16 Sec. 4. 33 V.S.A. § 5234a is added to read:

17 § 5234a. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS

18 INVOLVING A NONLISTED CRIME

19 The victim in a delinquency proceeding based on an act that is not a listed
20 crime shall have the following rights:

1 (1) To be notified by the Court of his or her rights as provided by law
2 and his or her responsibilities regarding the confidential nature of juvenile
3 proceedings.

4 (2) To be notified promptly by the Court when conditions of release are
5 initially ordered or modified by the Court and shall be notified promptly of the
6 identity of the child when the conditions of release relate to the victim or a
7 member of the victim’s family or current household. Victims are entitled only
8 to information contained in the conditions of release that pertain to the victim
9 or a member of the victim’s family or current household.

10 (3) To file with the Court a written or recorded statement of the impact
11 of the delinquent act on the victim and the need for restitution.

12 (4) To be present at the disposition hearing for the sole purpose of
13 presenting to the Court the impact of the delinquent act on the victim and the
14 need for restitution if the Court finds the victim’s presence at the disposition
15 hearing is in the best interests of the child and the victim.

16 (5) To have the Court take a victim’s views into consideration in the
17 Court’s disposition order.

18 (6) To be allowed not to be personally present at any portion of the
19 disposition hearing except to present the impact statement unless authorized by
20 the Court.

1 (7) To be informed by the Court after an adjudication of delinquency
2 has been made of the disposition of the case. Upon request of the victim, the
3 Court may release to the victim the identity of the child if the Court finds that
4 release of the child’s identity to the victim is in the best interests of both the
5 child and the victim. Disposition in the case shall include whether the child
6 was placed on probation and information regarding conditions of probation
7 relevant to the victim.

8 Sec. 5. REPEAL

9 33 V.S.A. §§ 5226 (notification of conditions of release) and 5233 (victim’s
10 statement at disposition) are repealed.

11 Sec. 6. EFFECTIVE DATE

12 This act shall take effect on September 1, 2015.

13 and that after passage the title of the bill be amended to read: “An act relating
14 to jurisdiction over delinquency proceedings by the Family Division of the
15 Superior Court and the rights of victims in delinquency proceedings”

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18 (Committee vote: _____)

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Representative _____

FOR THE COMMITTEE