

Brynn Hare
4/28/16

AS PASSED BY HOUSE
2015

H.95
Page 1 of 6

H.95

An act relating to jurisdiction over delinquency proceedings by the Family Division of the Superior Court

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

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

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

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

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

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

(1) 23 V.S.A. §§ 674 (driving while license suspended or revoked); 1128 (accidents—duty to stop); and 1133 (eluding a police officer).

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

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

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

Sec. 2. REPORT

(a) On or before March 1, 2016, each State's Attorney shall adopt a written protocol regarding his or her approach to deciding whether to file a delinquency petition or criminal charges against a child that reflects the purposes of 33 V.S.A. § 5101.

(b) On or before April 1, 2016, the Executive Director of the Department of State's Attorneys and Sheriffs shall report to the House and Senate Committees on Judiciary regarding State's Attorneys' implementation of subsection (a) of this section.

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

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

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

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

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

(B) his or her rights as provided by law, information regarding how a case proceeds through a delinquency proceeding, the confidential nature of

delinquency proceedings, and that it is unlawful to disclose confidential information concerning the proceedings to another person;

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

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

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

~~(4)(3) Upon request, to~~ To be notified by the agency having custody of the delinquent child before he or she is discharged from a secure or staff-secured residential facility. The name of the facility shall not be disclosed. An agency's inability to give notification shall not preclude the release. However, in such an event, the agency shall take reasonable steps to give notification of the release as soon thereafter as practicable. Notification

efforts shall be deemed reasonable if the agency attempts to contact the victim at the address or telephone number provided to the agency in the request for notification.

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

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

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

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

§ 5234a. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS

INVOLVING A NONLISTED CRIME

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

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

(2) To be notified promptly by the Court when conditions of release are initially ordered or modified by the Court and shall be notified promptly of the identity of the child when the conditions of release relate to the victim or a member of the victim's family or current household. Victims are entitled only

to information contained in the conditions of release that pertain to the victim or a member of the victim's family or current household.

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

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

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

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

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

Sec. 5. REPEAL

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

Sec. 6. EFFECTIVE DATES

(a) This section and Sec. 2 of this act shall take effect on passage.

(b) The remaining sections of this act shall take effect on July 1, 2016.