

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) If a person 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 one
11 of those specified in subsection 5204(a) of this title, law enforcement shall cite
12 the person to the Family Division of the Superior Court.

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

17 (c) Each State’s Attorney shall adopt a written protocol regarding his or her
18 approach to the filing of charges against a child that reflects the purposes of
19 this chapter as identified in section 5201 of this title.

1 Sec. 2. 33 V.S.A. § 5234 is amended to read:

2 § 5234. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS
3 INVOLVING A LISTED CRIME

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

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

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

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

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

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

1 ~~(3)~~(2) To attend the disposition hearing and to present a victim's impact
2 statement, including a statement why restitution may be appropriate, at the
3 disposition hearing ~~in accordance with subsection 5233(b) of this title~~ and to
4 be notified as to the disposition ~~pursuant to subsection 5233(d) of this title.~~
5 The Court shall consider the victim's statement when ordering disposition.

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

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

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

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

1 Sec. 3. 33 V.S.A. § 5234a is added to read:

2 § 5234a. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS
3 INVOLVING A NONLISTED CRIME

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

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

9 (2) To be notified promptly by the Court when conditions of release are
10 initially ordered or modified by the Court and shall be notified promptly of the
11 identity of the child when the conditions of release relate to the victim or a
12 member of the victim's family or current household. Victims are entitled only
13 to information contained in the conditions of release that pertain to the victim
14 or a member of the victim's family or current household.

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

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

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

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

6 (7) To be informed by the Court after an adjudication of delinquency
7 has been made involving an act that is not a listed crime of the disposition of
8 the case. Upon request of the victim, the Court may release to the victim the
9 identity of the child if the Court finds that release of the child’s identity to the
10 victim is in the best interests of both the child and the victim. Disposition in
11 the case shall include whether the child was placed on probation and
12 information regarding conditions of probation relevant to the victim.

13 Sec. 4. REPEAL

14 33 V.S.A. §§ 5226 (notification of conditions of release) and 5233 (victim’s
15 statement at disposition) are repealed.

16 Sec. 5 EFFECTIVE DATE

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18 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE