

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 child was over 16 years of age and under 18 years of age at the time  
10 the offense was alleged to have been committed and the offense is not one of  
11 those specified in subsection 5204(a) of this title, law enforcement shall cite  
12 the child 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) On or before March 1, 2016, each State’s Attorney shall adopt a written  
18 protocol regarding his or her approach to the filing of charges against a child  
19 that reflects the purposes of this chapter as identified in section 5101 of this  
20 title.

1       Sec. 2. REPORT

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

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

6       § 5234. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS  
7               INVOLVING A LISTED CRIME

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

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

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

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

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

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

6           ~~(3)(2)~~ To attend the disposition hearing and to present a victim's impact  
7 statement, including a statement why restitution may be appropriate, at the  
8 disposition hearing ~~in accordance with subsection 5233(b) of this title~~ and to  
9 be notified as to the disposition ~~pursuant to subsection 5233(d) of this title.~~  
10 The Court shall consider the victim's statement when ordering disposition.

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

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

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

2           [Repealed.]

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

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

6           § 5234a. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS

7                           INVOLVING A NONLISTED CRIME

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

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

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

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

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

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

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

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

17       Sec. 5. REPEAL

18           33 V.S.A. §§ 5226 (notification of conditions of release) and 5233 (victim’s  
19           statement at disposition) are repealed.

20       Sec. 6. EFFECTIVE DATE

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

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

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6 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

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Representative \_\_\_\_\_

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FOR THE COMMITTEE