

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 267
3 entitled “An act relating to timing of a decree nisi in a divorce proceeding”
4 respectfully reports that it has considered the same and recommends that the
5 House propose to the Senate that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 13 V.S.A. § 9 is amended to read:

8 § 9. ATTEMPTS

9 (a) ~~A Attempts; generally. Except as provided in subsection (d) of this~~
10 ~~section, a person who attempts to commit an offense and does an act toward~~
11 ~~the commission thereof, but by reason of being interrupted or prevented fails in~~
12 ~~the execution of the same, shall be punished as herein provided unless other~~
13 ~~express provision is made by law for the punishment of the attempt. If the~~
14 ~~offense attempted to be committed is murder, aggravated murder, kidnapping,~~
15 ~~arson causing death, human trafficking, aggravated human trafficking,~~
16 ~~aggravated sexual assault, or sexual assault, a person shall be punished as the~~
17 ~~offense attempted to be committed is by law punishable.~~

18 (b) Felonies. If the offense attempted to be committed is a felony other
19 than those set forth in subsection ~~(a)~~(d) of this section, a person shall be
20 punished by the less severe of the following punishments:

1 (1) imprisonment for not more than 10 years or fined not more than
2 \$10,000.00, or both; or

3 (2) as the offense attempted to be committed is by law punishable.

4 (c) Misdemeanors. If the offense attempted to be committed is a
5 misdemeanor, a person shall be imprisoned or fined, or both, in an amount not
6 to exceed one-half the maximum penalty for which the offense so attempted to
7 be committed is by law punishable.

8 (d) Serious violent felonies.

9 (1)(A) If the offense attempted to be committed is murder, aggravated
10 murder, kidnapping, arson causing death, human trafficking, aggravated
11 human trafficking, aggravated sexual assault, or sexual assault, the penalty
12 shall not exceed 35 years imprisonment or a \$50,000.00 fine, or both.

13 (B) If the offense attempted to be committed is murder, aggravated
14 murder, kidnapping, arson causing death, human trafficking, aggravated
15 human trafficking, aggravated sexual assault, or sexual assault and results in
16 serious bodily injury to the victim, the penalty shall not exceed the penalty for
17 the offense attempted to be committed, but any presumptive or mandatory
18 minimum penalty applicable to the offense attempted to be committed shall not
19 apply to an attempt to commit that offense.

20 (2) Notwithstanding subsection (a) of this section, a person is guilty of
21 an attempt to commit an offense under this subsection if, with the purpose of

1 committing the offense, he or she performs any act that is a substantial step
2 towards the commission of the offense. A “substantial step” is conduct
3 strongly corroborative of the actor’s intent to complete the commission of the
4 offense and that advances beyond mere preparation.

5 (3) Conduct shall not be held to constitute a substantial step under
6 subdivision (2) of this subsection (d) unless it is strongly corroborative of the
7 actor’s criminal purpose. Without negating the sufficiency of other conduct,
8 the following, if strongly corroborative of the actor’s criminal purpose, shall
9 not be held insufficient as a matter of law:

10 (A) lying in wait, searching for, or following the contemplated victim
11 of the crime;

12 (B) enticing or seeking to entice the contemplated victim of the crime
13 to go to the place contemplated for the commission of the crime;

14 (C) reconnoitering the place contemplated for the commission of the
15 crime;

16 (D) unlawfully entering a structure, vehicle, or enclosure
17 contemplated for the commission of the crime;

18 (E) possessing materials to be employed in the commission of the
19 crime that are:

20 (i) specially designed for such unlawful use; or

21 (ii) that can serve no lawful purpose under the circumstances;

1 (F) possessing, collecting, or fabricating of materials to be employed
2 in the commission of the crime, at or near the place contemplated for its
3 commission, if such possession, collection, or fabrication serves no lawful
4 purpose of the actor under the circumstances; or

5 (G) soliciting an innocent agent to engage in conduct constituting an
6 element of the crime.

7 (4) Defenses.

8 (A) It is no defense to a prosecution under this subsection that the
9 offense attempted was, under the actual attendant circumstances, factually or
10 legally impossible of commission, if such offense could have been committed
11 had the attendant circumstances been as the actor believed them to be.

12 (B) It shall be an affirmative defense to a charge under this
13 subsection (d) that the actor abandoned his or her effort to commit the crime or
14 otherwise prevented its commission, under circumstances manifesting a
15 complete and voluntary renunciation of his or her criminal purpose. The
16 establishment of such a defense does not affect the liability of an accomplice
17 who did not join in such abandonment or prevention. Renunciation of criminal
18 purpose is not voluntary if it is motivated, in whole or in part, by
19 circumstances, not present or apparent at the inception of the actor's course of
20 conduct, that increase the probability of detection or apprehension or that make
21 more difficult the accomplishment of the criminal purpose. Renunciation is

1 not complete if it is motivated by a decision to postpone the criminal conduct
2 until a more advantageous time or to transfer the criminal effort to another but
3 similar objective or victim.

4 Sec. 2. EFFECTIVE DATE

5 This act shall take effect on passage.

6 and that after passage the title of the bill be amended to read: “An act
7 relating to attempts”

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9
10
11 (Committee vote: _____)

12 _____

13 Representative _____

14 FOR THE COMMITTEE