

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) 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 maximum
12 penalty shall be the penalty for the offense attempted to be committed, but any
13 presumptive or mandatory minimum penalty applicable to the offense
14 attempted to be committed shall not apply to an attempt to commit that
15 offense.

16 (2) Notwithstanding subsection (a) of this section, a person is guilty of
17 an attempt to commit an offense under this subsection if, with the purpose of
18 committing the offense, he or she performs any act that is a substantial step
19 towards the commission of the offense. A “substantial step” is conduct
20 strongly corroborative of the actor’s intent to complete the commission of the
21 offense and that advances beyond mere preparation.

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

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

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

10 (C) reconnoitering the place contemplated for the commission of the
11 crime;

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

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

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

17 (ii) that can serve no lawful purpose under the circumstances.

18 (4) Defenses.

19 (A) It is no defense to a prosecution under this subsection that the
20 offense attempted was, under the actual attendant circumstances, factually or

1 legally impossible of commission, if such offense could have been committed
2 had the attendant circumstances been as the actor believed them to be.

3 (B) It shall be an affirmative defense to a charge under this
4 subsection (d) that the actor abandoned his or her effort to commit the crime or
5 otherwise prevented its commission, under circumstances manifesting a
6 complete and voluntary renunciation of his or her criminal purpose. The
7 establishment of such a defense does not affect the liability of an accomplice
8 who did not join in such abandonment or prevention. Renunciation of criminal
9 purpose is not voluntary if it is motivated, in whole or in part, by
10 circumstances, not present or apparent at the inception of the actor's course of
11 conduct, that increase the probability of detection or apprehension or that make
12 more difficult the accomplishment of the criminal purpose. Renunciation is
13 not complete if it is motivated by a decision to postpone the criminal conduct
14 until a more advantageous time or to transfer the criminal effort to another but
15 similar objective or victim.

1 Sec. 2. EFFECTIVE DATE

2 This act shall take effect on passage.

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

5
6 (Committee vote: _____)

7

8

Representative _____

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FOR THE COMMITTEE

