

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 penalty
12 shall be not more than 20 years imprisonment or a \$50,000.00 fine, or both.

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

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

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

3 (C) reconnoitering the place contemplated for the commission of the
4 crime;

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

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

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

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

11 (3) Defenses.

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

16 (B) It shall be an affirmative defense to a charge under this
17 subsection (d) that the actor abandoned his or her effort to commit the crime or
18 otherwise prevented its commission, under circumstances manifesting a
19 complete and voluntary renunciation of his or her criminal purpose. **If the**
20 **defendant presents evidence of abandonment, the burden shall be on the State**
21 **to establish beyond a reasonable doubt that the attempt was not abandoned.**

1 The establishment of such a defense does not affect the liability of an
2 accomplice who did not join in such abandonment or prevention.
3 Renunciation of criminal purpose is not voluntary if it is motivated, in whole
4 or in part, by circumstances, not present or apparent at the inception of the
5 actor's course of conduct, that increase the probability of detection or
6 apprehension or that make more difficult the accomplishment of the criminal
7 purpose. Renunciation is not complete if it is motivated by a decision to
8 postpone the criminal conduct until a more advantageous time or to transfer the
9 criminal effort to another but similar objective or victim.

10 Sec. 2. 13 V.S.A. § 4003 is amended to read:

11 § 4003. CARRYING DANGEROUS WEAPONS

12 A person who carries or possesses a dangerous or deadly weapon, ~~openly or~~
13 ~~concealed, or with the intent or avowed purpose of injuring a fellow man, who~~
14 ~~carries a dangerous or deadly weapon within any state institution or upon the~~
15 ~~grounds or lands owned or leased for the use of such institution, without the~~
16 ~~approval of the warden or superintendent of the institution, to injure another~~
17 ~~shall be imprisoned not more than two years or fined not more than \$200.00~~
18 \$2,000.00, or both. It shall be a felony punishable by not more than 10 years
19 or a fine of \$25,000.00, or both, if the person intends to injure multiple
20 persons.

21 Sec. 3. 13 V.S.A. § 1703 is added to read:

1 § 1703. MASS ATTACK

2 (a) As used in this section:

3 (1) “Public setting” shall mean any place that is open and accessible to
4 the general public, and shall include educational institutions and school
5 property as defined in section 4004 of this title.

6 (2) “Substantial step” shall mean conduct strongly corroborative of the
7 actor’s intent to complete the commission of the offense and shall include, as a
8 matter of law:

9 (A) reconnoitering the place contemplated for the commission of the
10 crime;

11 (B) unlawful entry of a structure in which it is contemplated that the
12 crime will be committed;

13 (C) possession of materials including a dangerous or deadly weapon
14 to be employed in the commission of the crime, that are specially designed for
15 such unlawful use; or

16 (D) possession, collection or fabrication of materials to be employed
17 in the commission of the crime, at or near the place contemplated for its
18 commission, if such possession, collection or fabrication serves no lawful
19 purpose of the actor under the circumstances.

20 (3) “Serious bodily injury” shall have the same meaning as in section
21 1201 of this title.

1 (b) A person shall not knowingly and willfully cause serious bodily injury
2 or death to a person or multiple people in a public setting with the intent to:

3 (1) cause serious bodily injury or death to more than one person; or

4 (2) places a civilian population in reasonable apprehension of mass
5 destruction or mass killings.

6 (c) Notwithstanding section 9 of this title, a person is guilty of an attempt
7 to violate this section if, with the intent to commit the offense, he or she
8 undertakes any act that is a substantial step towards the commission of the
9 offense.

10 (d) Penalties.

11 (1) A person who violates subsection (b) of this section shall be subject
12 to maximum penalty of life imprisonment.

13 (2) A person who violates subsection (c) of this section shall be
14 imprisoned for not more than 20 years or fined not more than \$50,000.00, or
15 both.

16 (e) Renunciation of criminal purpose. When the actor's conduct would
17 otherwise constitute an attempt under subsection (c) of this section, it shall be
18 an affirmative defense that the actor abandoned the effort to commit the crime
19 under circumstances manifesting a complete and voluntary renunciation of the
20 criminal purpose. If the defendant presents evidence of abandonment, the

1 burden shall be on the State to establish beyond a reasonable doubt that the
2 attempt was not abandoned.

3 Sec. 4. 13 V.S.A. § 1702 is amended to read:

4 § 1702. CRIMINAL THREATENING

5 (a) Criminal threatening; general. A person shall not by words or conduct
6 knowingly:

7 (1) threaten another person; and

8 (2) as a result of the threat, place the other person in reasonable
9 apprehension of death or serious bodily injury.

10 (b) Penalty. A person who violates subsection (a) of this section shall be
11 imprisoned not more than one year or fined not more than \$1,000.00, or both.

12 (c) Enhanced penalties.

13 (1) A person who violates subsection (a) of this section with the intent to
14 prevent another person from reporting to the Department for Children and
15 Families the suspected abuse or neglect of a child shall be imprisoned not more
16 than two years or fined not more than \$1,000.00, or both.

17 (2) A person who violates subsection (a) of this section by threatening
18 multiple people or a civilian population shall be imprisoned not more than 5
19 years or fined not more than \$5,000.00, or both.

20 (d) As used in this section:

1 (1) “Serious bodily injury” shall have the same meaning as in section
2 1021 of this title.

3 (2) “Threat” and “threaten” shall not include constitutionally protected
4 activity.

5 (e) Any person charged under this section who is under 18 years of age
6 shall be adjudicated as a juvenile delinquent.

7 (f) It shall be an affirmative defense to a charge under this section that the
8 person did not have the ability to carry out the threat. The burden shall be on
9 the defendant to prove the affirmative defense by a preponderance of the
10 evidence.

11 Sec. 5. EFFECTIVE DATE

12 This act shall take effect on passage.

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

15
16 (Committee vote: _____)

17

18

Representative _____

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FOR THE COMMITTEE