

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 25
3 entitled “An act relating to sexual assault survivors’ rights” respectfully reports
4 that it has considered the same and recommends that the Senate propose to the
5 House that the bill be amended by striking out all after the enacting clause and
6 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, a person shall
12 be punished as the offense attempted to be committed is by law punishable.

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 that is
17 strongly corroborative of the firmness of the actor’s purpose to complete the
18 commission of the offense.

19 (3) Affirmative defenses.

20 (A) It is no defense to a prosecution under this subsection that the
21 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), if proven by a preponderance of the evidence, that the actor
5 abandoned his or her effort to commit the crime or otherwise prevented its
6 commission, under circumstances manifesting a complete and voluntary
7 renunciation of his or her criminal purpose. The establishment of such a
8 defense does not affect the liability of an accomplice who did not join in such
9 abandonment or prevention. Renunciation of criminal purpose is not voluntary
10 if it is motivated, in whole or in part, by circumstances, not present or apparent
11 at the inception of the actor's course of conduct, that increase the probability of
12 detection or apprehension or that make more difficult the accomplishment of
13 the criminal purpose. Renunciation is not complete if it is motivated by a
14 decision to postpone the criminal conduct until a more advantageous time or to
15 transfer the criminal effort to another but similar objective or victim.

16 Sec. 2. EFFECTIVE DATE

17 This act shall take effect on passage.

18 and that after passage the title of the bill be amended to read: "An act
19 relating to attempts"

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(Committee vote: _____)

Senator _____

FOR THE COMMITTEE