

1
2
3
4
5
6
7
8
9

10
11
12
13
14
15
16
17
18
19
20

H.589

Introduced by Representative LaLonde of South Burlington

Referred to Committee on

Date:

Subject: Juvenile proceedings; Family Division; jurisdiction

Statement of purpose of bill as introduced: This bill proposes to allow individuals 18 years of age to be charged in the Family Division if they are alleged to have committed a nonviolent offense when they were 17 years of age.

An act relating to Family Division jurisdiction over adult defendants

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 33 V.S.A. § 5204a is amended to read:

§ 5204a. JURISDICTION OVER ADULT DEFENDANT FOR CRIME
COMMITTED WHEN DEFENDANT WAS UNDER ~~AGE~~ 18
YEARS OF AGE

(a) A proceeding may be commenced in the Family Division against a defendant who has attained 18 years of age if:

(1) the petition alleges that the defendant;

(A) before attaining 18 years of age, violated a crime listed in subsection 5204(a) of this title; ~~or~~

1 (B) after attaining 14 years of age but before attaining 18 years of
2 age, committed an offense listed in 13 V.S.A. § 5301(7) but not listed in
3 subsection 5204(a) of this title; or

4 (C) after attaining 17 years of age but before attaining 18 years of
5 age, committed any offense not listed in 13 V.S.A. § 5301(7) or subsection
6 5204(a) of this title, as long as the petition is filed prior to the defendant's 19th
7 birthday;

8 (2) a juvenile petition was never filed based upon the alleged conduct;
9 and

10 (3) the statute of limitations has not tolled on the crime which the
11 defendant is alleged to have committed.

12 (b)(1) The Family Division shall, except as provided in subdivision (2) of
13 this subsection, transfer a petition filed pursuant to subdivision (a)(1)(A) of
14 this section to the Criminal Division if the Family Division finds that:

15 (A) there is probable cause to believe that while the defendant was
16 less than 18 years of age he or she committed an act listed in subsection
17 5204(a) of this title;

18 (B) there was good cause for not filing a delinquency petition in the
19 Family Division when the defendant was less than 18 years of age;

20 (C) there has not been an unreasonable delay in filing the petition;
21 and

1 (D) transfer would be in the interest of justice and public safety.

2 (2)(A) If a petition has been filed pursuant to subdivision (a)(1)(A) of
3 this section, the Family Division may order that the defendant be treated as a
4 youthful offender consistent with the applicable provisions of chapter 52A of
5 this title if the defendant is under 23 years of age and the Family Division:

6 (i) makes the findings required by subdivisions (1)(A), (B), and
7 (C) of this subsection;

8 (ii) finds that the youth is amenable to treatment or rehabilitation
9 as a youthful offender; and

10 (iii) finds that there are sufficient services in the Family Division
11 system and the Department for Children and Families or the Department of
12 Corrections to meet the youth's treatment and rehabilitation needs.

13 (B) If the Family Division orders that the defendant be treated as a
14 youthful offender, the court shall approve a disposition case plan and impose
15 conditions of probation on the defendant.

16 (C) If the Family Division finds after hearing that the defendant has
17 violated the terms of his or her probation, the Family Division may:

18 (i) maintain the defendant's status as a youthful offender, with
19 modified conditions of probation if the court deems it appropriate; or

1 (ii) revoke the defendant's youthful offender status and transfer
2 the petition to the Criminal Division pursuant to subdivision (1) of this
3 subsection.

4 (3) The Family Division shall in all respects treat a petition filed
5 pursuant to subdivision (a)(1)(B) of this section in the same manner as a
6 petition filed pursuant to section 5201 of this title, except that the Family
7 Division's jurisdiction shall end on or before the defendant's 22nd birthday, if
8 the Family Division:

9 (A) finds that there is probable cause to believe that, after attaining
10 14 years of age but before attaining 18 years of age, the defendant committed
11 an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection 5204(a) of
12 this title; and

13 (B) makes the findings required by subdivisions (b)(1)(B) and (C) of
14 this section.

15 (4) In making the determination required by subdivision (1)(D) of this
16 subsection, the court may consider, among other matters:

17 (A) the maturity of the defendant as determined by consideration of
18 his or her age; home; environment; emotional, psychological, and physical
19 maturity; and relationship with and adjustment to school and the community;

20 (B) the extent and nature of the defendant's prior criminal record and
21 record of delinquency;

1 (C) the nature of past treatment efforts and the nature of the
2 defendant's response to them;

3 (D) whether the alleged offense was committed in an aggressive,
4 violent, premeditated, or willful manner;

5 (E) the nature of any personal injuries resulting from or intended to
6 be caused by the alleged act;

7 (F) whether the protection of the community would be best served by
8 transferring jurisdiction from the Family Division to the Criminal Division of
9 the Superior Court.

10 (c) If the Family Division does not transfer a petition filed pursuant to
11 subdivision (a)(1)(A) of this section to the Criminal Division or order that the
12 defendant be treated as a youthful offender pursuant to subsection (b) of this
13 section, the petition shall be dismissed.

14 (d)(1) The Family Division shall treat a petition filed pursuant to
15 subdivision (a)(1)(C) of this section in all respects in the same manner as a
16 petition filed pursuant to section 5201 of this title if the court:

17 (A) finds that there is probable cause to believe that, after attaining
18 17 years of age but before attaining 18 years of age, the defendant committed
19 an offense not listed in 13 V.S.A. § 5301(7) or subsection 5204(a) of this title;
20 and

1 (B) makes the findings required by subdivisions (b)(1)(B) and (C) of
2 this section.

3 (2) The Family Division's jurisdiction over cases filed pursuant to
4 subdivision (a)(1)(C) of this section shall end on or before the defendant's 20th
5 birthday.

6 Sec. 2. EFFECTIVE DATE

7 This act shall take effect on passage.