

Journal of the Senate

THURSDAY, FEBRUARY 17, 2022

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bills Amended; Third Readings Ordered

S. 175.

Senator White, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to confidential information concerning the initial arrest and charge of a child.

Reported recommending that the bill be amended by striking out Sec. 1, 1 V.S.A. § 317, in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS; EXEMPTIONS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(5)(A) Records dealing with the detection and investigation of crime, but only to the extent that the production of such records:

* * *

(B)(i) Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public.

(ii) A public agency shall not release any information within a record reflecting the initial arrest or charge of a person who is younger than

the age identified in 33 V.S.A. § 5201(d) that would reveal the identity of the person. However, a public agency may disclose information that would reveal the identity of the person in order to protect the health and safety of any person.

* * *

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 265.

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to expanding criminal threatening to include threats to third persons.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct knowingly:

(1) threaten another person or a group of particular persons; and

(2) as a result of the threat, place the other person in reasonable apprehension of death or serious bodily injury to the other person, a person in the group of particular persons, or any other person.

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

(c) A person who violates subsection (a) of this section with the intent to prevent another person from reporting to the Department for Children and Families the suspected abuse or neglect of a child shall be imprisoned not more than two years or fined not more than ~~\$1,000.00~~ \$2,000.00, or both.

(d) A person who violates subsection (a) of this section by making a threat that places any person in reasonable apprehension that death or serious bodily injury will occur at a public or private school; postsecondary education institution; place of worship; polling place during election activities; the Vermont State House; or any federal, State, or municipal building shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(e) A person who violates subsection (a) of this section with the intent to terrify, intimidate, or unlawfully influence a person to prevent that person from complying with State laws or rules, State court or administrative orders, or State executive orders shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(f) As used in this section:

(1) "Serious bodily injury" shall have has the same meaning as in section 1021 of this title.

(2) "Threat" and "threaten" shall do not include constitutionally protected activity.

(3) "Candidate" has the same meaning as in 17 V.S.A. § 2103.

(4) "Election official" has the same meaning as in 17 V.S.A. § 2455.

(5) "Public employee" means a classified employee within the Legislative, Executive, or Judicial Branch of the State and any of its political subdivisions and any employee within a county or local government and any of the county's or local government's political subdivisions.

(6) "Public servant" has the same meaning as in 17 V.S.A. § 2103.

(7) "Polling place" has the same meaning as in 17 V.S.A. chapter 51, subchapter 4.

~~(e)(g)~~ Any person charged under this section who ~~is under 18 years of age~~ meets the definition of "child" pursuant to 33 V.S.A. § 5102(2)(C) and is an age enumerated in 33 V.S.A. § 5103(c)(2) shall be adjudicated as a juvenile delinquent subject to a juvenile proceeding.

~~(f)(h)~~ It shall be an affirmative defense to a charge under this section that the person did not have the ability to carry out the threat. The burden shall be on the defendant to prove the affirmative defense by a preponderance of the evidence. A person who violates subsection (a) of this section with the intent to terrify, intimidate, or unlawfully influence the conduct of a candidate for public office, public servant, election official, or public employee in any decision, opinion, recommendation, vote, or other exercise of discretion taken in capacity as a candidate for public office, public servant, election official, or public employee, or with the intent to retaliate against a candidate for public office, public servant, election official, or public employee for any previous action taken in capacity as a candidate for public office, public servant, election official, or public employee, shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered on a roll call, Yeas 28, Nays 2.

Senator Collamore having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Balint, Baruth, Bray, Brock, Champion, Chittenden, Clarkson, Collamore, Cummings, Hardy, Hooker, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Parent, Pearson, Perchlik, Pollina, Ram Hinsdale, Sears, Sirotkin, Starr, Terenzini, Westman, White.

Those Senators who voted in the negative were: Benning, Ingalls.

Adjournment

On motion of Senator Balint, the Senate adjourned until eleven o'clock and thirty minutes in the morning.