

Amber Burke

From: Erik Fitzpatrick
Sent: Wednesday, March 23, 2022 11:22 AM
To: HOUSE_JUDICIARY
Cc: Amber Burke; Alexander McCracken
Subject: S.224; Language from 2018 Act 201

Follow Up Flag: Follow up
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Hi all,

Below is the language Kate requested from Act 201 of 2018 that is referred to in Section 1 of the juvenile bill you looked at this morning (S.224).

Thanks and let me know if you need anything else,
Erik

* * * Effective July 1, 2022 * * *

Sec. 17. 33 V.S.A. § 5201 is amended as follows:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

(a) Proceedings under this chapter shall be commenced by:

- (1) transfer to the court of a proceeding from another court as provided in subsection (c) of this section; or
- (2) the filing of a delinquency petition by a State's Attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the State's Attorney shall provide to the court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 18 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed any offense other than those specified in subsection 5204(a) of this title before attaining ~~19~~ 20 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

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Sec. 18. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~19~~ 20 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was under ~~19~~ 20 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to

section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

(d) A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the Superior Court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.

(e) Motions to transfer a case to the Family Division of the Superior Court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 19. 33 V.S.A. § 5204 is amended as follows:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained 16 years of age but not ~~19~~ 20 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);
- (4) aggravated assault as defined in 13 V.S.A. § 1024;
- (5) murder as defined in 13 V.S.A. § 2301;
- (6) manslaughter as defined in 13 V.S.A. § 2304;
- (7) kidnapping as defined in 13 V.S.A. § 2405;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
- (9) maiming as defined in 13 V.S.A. § 2701;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.