

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 265
3 entitled “An act relating to expanding criminal threatening to include threats to
4 third persons” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

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

9 § 1702. CRIMINAL THREATENING

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

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

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

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

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

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

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

12 (f) A person who violates subsection (a) of this section with the intent to
13 terrify, intimidate, or unlawfully influence the conduct of a candidate for
14 public office, a public servant, an election official, or a public employee in any
15 decision, opinion, recommendation, vote, or other exercise of discretion taken
16 in capacity as a candidate for public office, a public servant, an election
17 official, or a public employee, or with the intent to retaliate against a candidate
18 for public office, a public servant, an election official, or a public employee for
19 any previous action taken in capacity as a candidate for public office, a public
20 servant, an election official, or a public employee, shall be imprisoned not
21 more than two years or fined not more than \$2,000.00, or both.

1 **(g)** As used in this section:

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

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

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

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

8 (5) “Public employee” means a classified employee within the
9 Legislative, Executive, or Judicial Branch of the State and any of its political
10 subdivisions and any employee within a county or local government and any of
11 the county’s or local government’s political subdivisions.

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

13 (7) “Polling place” has the same meaning as **described** in 17 V.S.A.
14 chapter 51, subchapter 4.

15 (8) “Sexual assault” has the same meaning as sexual assault as described
16 **in section 3252 of this title.**

17 ~~(e)~~**(h)** Any person charged under this section who is ~~under 18 years of age~~
18 **younger than the age identified in 33 V.S.A. § 5201(d)** shall be ~~adjudicated as~~
19 ~~a juvenile delinquent~~ subject to a juvenile proceeding.

20 ~~(f) It shall be an affirmative defense to a charge under this section that the~~
21 ~~person did not have the ability to carry out the threat. The burden shall be on~~

1 ~~the defendant to prove the affirmative defense by a preponderance of the~~
2 ~~evidence.~~

3 Sec. 2. EFFECTIVE DATE

4 This act shall take effect on passage.

5

6

7

8

9

10 (Committee vote: _____)

11

12

Representative _____

13

FOR THE COMMITTEE