

1 TO THE HONORABLE SENATE:

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

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

8 § 1702. CRIMINAL THREATENING

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

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

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

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

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

20 (d) A person who violates subsection (a) of this section by making a threat
21 that places any person in reasonable apprehension that death or serious bodily

1 injury will occur at a public or private school; postsecondary education
2 institution; place of worship; polling place during election activities; the
3 Vermont State House; or any federal, State, or municipal building shall be
4 imprisoned not more than two years or fined not more than \$2,000.00, or both.

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

10 (f) As used in this section:

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

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

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

16 (4) “Public employee” means a classified employee within the
17 Legislative, Executive, or Judicial Branch of the State and any of its political
18 subdivisions and any employee within a county or local government and any of
19 the county’s or local government’s political subdivisions.

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

1 (6) “Polling place” has the same meaning as in 17 V.S.A. chapter 51,
2 subchapter 4.

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

7 ~~(f)(h) It shall be an affirmative defense to a charge under this section that~~
8 ~~the person did not have the ability to carry out the threat. The burden shall be~~
9 ~~on the defendant to prove the affirmative defense by a preponderance of the~~
10 ~~evidence. A person who violates subsection (a) of this section with the intent~~
11 to terrify, intimidate, or unlawfully influence the conduct of a public servant,
12 election official, or public employee in any decision, opinion,
13 recommendation, vote, or other exercise of discretion taken in capacity as a
14 public servant, election official, or public employee, or with the intent to
15 retaliate against a public servant, election official, or public employee for any
16 previous action taken in capacity as a public servant, election official, or public
17 employee, shall be imprisoned not more than two years or fined not more than
18 \$2,000.00, or both.

19 Sec. 2. EFFECTIVE DATE

20 This act shall take effect on passage.

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2 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE