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Act No. 125 (S.58). An act relating to public safety

Subjects: Juvenile proceedings; regulated drugs

This act modifies the list of “Big 12” offenses that are generally required to begin in the Criminal Division when committed by a juvenile, extends the implementation date for the Raise the Age juvenile justice initiative, and makes a number of changes regarding dispensing and sale of regulated drugs.

The act makes several changes to the statutory list of “Big 12” offenses, which are the offenses that must generally begin in the Criminal Division when committed by a juvenile, unless the State’s Attorney direct files the case as a youthful offender proceeding in the Family Division. The adds several new offenses to the Big 12, specifically using a firearm while committing a felony, human trafficking, and aggravated stalking. However, these three offenses will only begin in the Criminal Division if the person is 16 years of age or older, so if the offender is younger than 16 years of age, then the case will continue to begin in the Family Division. The act also removes burglary into an occupied dwelling from the Big 12.

The act extends the implementation date for the Raise the Age juvenile justice initiative from July 1, 2024, to April 1, 2025. This program, which has been ongoing for several years, increases the age at which children who engage in criminal conduct are charged as juveniles in the Family Division rather than as adults in the Criminal Division. The act also requires the Department for Children and Families to provide the Legislature with bi-monthly status reports on the program’s implementation

The act criminalizes the unauthorized dispensing or sale of xylazine a criminal offense. Exceptions are made for the lawful use in veterinary medicine.

For crimes related to the dispensing or sale of fentanyl, xylazine, depressants, stimulants, and narcotics only, the definition of “knowingly” means:

(A) the defendant had actual knowledge that one or more preparations, compounds, mixtures, or substances contained the regulated drug; or

(B) the defendant:

(i) was aware that there is a high probability that one or more preparations, compounds, mixtures, or substances contained the regulated drug; and

(ii) took deliberate actions to avoid learning that one or more preparations, compounds, mixtures, or substances contained the regulated drug.

With respect to the crime of dispensing or selling a regulated drug with death resulting, the act prohibits using as a defense the fact that the substance dispensed or sold contains more than one regulated drug if the proximate cause of death is the use of the substance. The act also requires the two-year minimum term of imprisonment to be

served and may not be suspended, deferred, or served as a supervised sentence. However, the court may impose a sentence that does not include a term of imprisonment or that includes a term of imprisonment of less than two years if the court makes findings on the record that the sentence will serve the interests of justice.

The act also requires that a person cited or arrested for dispensing or selling a regulated drug be arraigned on the next business day after the citation or arrest if the alleged illegal activity occurred at a dwelling where the person is not a legal tenant.

The act requires the Vermont Sentencing Commission to make a recommendation to the General Assembly not later than October 15, 2024, whether in 18 V.S.A. § 4250, selling or dispensing with death resulting, there should be a permissive inference that the proximate cause of death is the person's use of the regulated drug if the regulated drug contains fentanyl.

Finally, the act directs the Department of Health, in partnership with entities that provide education, outreach, and services regarding substance use disorder, to engage in continuous efforts to publicize the immunity protections in 18 V.S.A. § 4254 to encourage persons to seek medical assistance for someone who is experiencing an overdose.

Multiple effective dates, beginning on July 1, 2024